

RANDOLPH-SHEPPARD ACT FOR THE BLIND AMENDMENTS OF 1973

HEARINGS
BEFORE THE
SUBCOMMITTEE ON THE HANDICAPPED
OF THE
COMMITTEE ON
LABOR AND PUBLIC WELFARE
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
S. 2581

TO AMEND THE RANDOLPH-SHEPPARD ACT FOR THE
BLIND TO PROVIDE FOR A STRENGTHENING OF THE PRO-
GRAM AUTHORIZED THEREUNDER, AND FOR OTHER
PURPOSES

NOVEMBER 16, 19, AND DECEMBER 6, 1973

Printed for the use of the Committee on Labor and Public Welfare



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AMERICAN FOUNDATION FOR THE BLIND
15 WEST 16th STREET
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CONTENTS

Text of bill :	Page
S. 2581-----	2

CHRONOLOGICAL LIST OF WITNESSES

FRIDAY, NOVEMBER 16, 1973

Ahart, Gregory, Director, Manpower and Welfare Division, General Accounting Office, accompanied by Franklin Curtis, Associate Director; Matthew Solomon, Supervisory Auditor; and Barry Bedrick, Office of General Counsel-----	22
Reedy, Corbett, Acting Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare, accompanied by Joan Hutchinson, Deputy Assistant Secretary for Legislation (Welfare); Douglas MacFarland, Director, Office for the Blind and Visually Handicapped; and Henry Seward, program specialist-----	36
Hoehne, Charles, executive director, National Council of State Agencies for the Blind-----	45
Tammen, Fred R., field consultant, National Rehabilitation Association---	87

MONDAY, NOVEMBER 19, 1973

Innamorati, A. W., Assistant Commissioner, Buildings Management, Public Buildings Service, accompanied by Robert Marcus, Director of Concessions Division-----	89
Benade, Lt. Gen., Leo E., Deputy Assistant Secretary for Military Personnel Policy, Department of Defense-----	98
Eudey, William, Assistant Postmaster General, Employee Relations; accompanied by Alvin Gandal, Phil Tice, Allen Sanders, and Henry Gronkiewicz-----	104
Perry Milton, president, District of Columbia Stand Operators; Arthur Segal, treasurer, Randolph-Sheppard Vendors of America; Irvin Schloss, Washington representative, American Foundation for the Blind; Durward McDaniel, national representative, American Council of the Blind; John Taylor, National Federation of the Blind; George Reed, vice president, District of Columbia Stand Operators; and Karen Perzentka, secretary, Randolph-Sheppard Vendors of America, and stand operator, Madison, Wis., a panel-----	114
Connery, Vincent L., national president, National Treasury Employees Union, accompanied by Jerry Klepner-----	176

THURSDAY, DECEMBER 6, 1973

Nilan, Patrick J., legislative director, American Postal Workers Union, accompanied by Stanley Lewis and Austin Carlson of the Letter Carriers; James J. LaPenta, Jr., of the Mail Handlers Division of the Laborers International Union of North America; and John McCart, operations director of the Government Employees Council-----	194
Lewis, Stanley J., executive vice president, National Association of Letter Carriers-----	206
La Penta, J., Jr., director, Federal Public Service Division, Laborers' International Union of North America, AFL-CIO-----	210
McCart, John A., operations director, Government Employees Council, AFL-CIO-----	221

STATEMENTS

Ahart, Gregory, Director, Manpower and Welfare Division, General Accounting Office, accompanied by Franklin Curtis, Associate Director; Matthew Solomon, Supervisory Auditor; and Barry Bedrick, Office of General Counsel-----	Page 22
Benade, Lt. Gen. Leo E., Deputy Assistant Secretary for Military Personnel Policy, Department of Defense-----	98
Connery, Vincent L., national president, National Treasury Employees Union, accompanied by Jerry Klepner-----	176
Prepared statement-----	179
Eudey, William, Assistant Postmaster General, Employee Relations; accompanied by Alvin Gandal, Phil Tice, Allen Sanders, and Henry Gronkiewicz-----	104
Hoehne, Charles, executive director, National Council of State Agencies for the Blind-----	45
Prepared statement-----	57
Innamorati, A. W., Assistant Commissioner, Buildings Management, Public Buildings Service, accompanied by Robert Marcus, Director of Concessions Division-----	89
LaPenta, J., Jr., director, Federal Public Service Division, Laborers' International Union of North America AFL-CIO-----	210
Prepared statement-----	217
Lewis, Stanley J., executive vice president, National Association of Letter Carriers-----	206
McCart, John A., operations director, Government Employees Council, AFL-CIO-----	221
Prepared statement-----	223
Nilan, Patrick J., legislative director, American Postal Workers Union, accompanied by Stanley Lewis and Austin Carlson of the Letter Carriers; James J. LaPenta, Jr., of the Mail Handlers Division of the Laborers' International Union of North America; and John McCart, operations director of the Government Employees Council-----	194
Perry, Milton, president, District of Columbia Stand Operators; Arthur Segal, treasurer, Randolph-Sheppard Vendors of America; Irvin Schloss, Washington representative, American Foundation for the Blind; Durward McDaniel, national representative, American Council of the Blind; John Taylor, National Federation of the Blind; George Reed, vice president, District of Columbia Stand Operators; and Karen Perzentka, secretary, Randolph-Sheppard Vendors of America, and stand operator, Madison, Wis., a panel-----	114
Prepared statement of Mr. Schloss-----	117
Reedy, Corbett, Acting Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare, accompanied by Joan Hutchinson, Deputy Assistant Secretary for Legislation (Welfare); Douglas MacFarland, Director, Office for the Blind and Visually Handicapped; and Henry Seward, Program Specialist-----	36
Segal, Arthur, member, Board of Directors, Randolph-Sheppard Vendors of America, prepared statement-----	137
Tammen, Fred R., field consultant, National Rehabilitation Association-----	87
Taylor, John, representing the National Federation of the Blind, prepared statement-----	128

ADDITIONAL INFORMATION

Articles, publications, etc.:	
Negotiated Benefits for Postal Employees Under Agreement Effective July 21, 1973 through July 20, 1975-----	202
Vending Machines—Operation by Employee Groups and Blind Persons—Disposition of Receipts [B-112840]-----	108
"Vernon's Texas Civil Statutes,"—Vending Facilities Operated by Blind Persons-----	50
Communications to:	
Humphreys, Robert, Senate Committee on Labor and Public Welfare, from John N. Taylor, representing the National Federation of the Blind, December 6, 1973 (with enclosures)-----	156
Tables:	
Recent statistics on Randolph-Sheppard program-----	149

APPENDIX

Articles, publications, etc.:	Page
A Shabby Ripoff, from the Pittsburgh Press, November 3, 1973-----	325
Blind Vendors Suffer as Machines "Illegally" Fatten Employee Funds, from the Sunday Sun, Baltimore, Md., October 14, 1973-----	334
GAO: Blind Get No Breaks, by Richard Starnes, from the Washington Post, October 13, 1973-----	339
Legislative History of the Randolph-Sheppard Act of June 20, 1936---	341
Machine Payoffs Oust Blind Vendors, by Richard Starnes, from Scripps-Howard Wire Service, February 13, 1973-----	328
Military Hit on Vendor Policy, from the Air Force Times, Novem- ber 21, 1973-----	340
Communications to:	
Humphreys, Robert, special counsel to Committee on Labor and Public Welfare, from Julius Shiskin, Commissioner, U.S. Department of Labor, October 24, 1973 (with enclosures)-----	249
Randolph, Hon. Jennings, a U.S. Senator from the State of West Vir- ginia, from:	
Bettwy, Leroy J., secretary, American Association of Workers for the Blind, Inc., Pennsylvania-Delaware Chapter, Bridgeville, Pa., December 3, 1973-----	327
Bisone, Edward W., president, League of Federal Recreation Asso- ciations, Washington, D.C., December 13, 1973-----	333
Cunningham, Russell W., director, Administration and Finance, Port Authority of Allegheny County, Pittsburgh, Pa., Novem- ber 15, 1973-----	326
Keller, Robert F., Comptroller General of the United States, October 31, 1973-----	240
Miller, Ione B., legislative representative for California Blind Businessmen, Inc., San Diego, Calif., October 31, 1973-----	331
Sampson, Arthur F., Acting Administrator, General Services Administration:	
April 2, 1973-----	239
December 27, 1973-----	245
Tagmyer, Agnes, Pittsburgh, Pa-----	325
Wimberly, Emma J., 1st vice president, Auxiliary (KPWU), Ken- tucky Postal Workers Union, AFL-CIO, Louisville, Ky., Novem- ber 28, 1973-----	326
Zei, John J., eastern counsel, National Automatic Merchandising Association, Chicago, Ill., December 3, 1973-----	327
Sampson, Arthur F., Acting Administrator, General Services Admin- istration, from Hon. Jennings Randolph, a U.S. Senator from the State of West Virginia, March 20, 1973-----	238
Staats, Elmer B., Comptroller General of the United States, from Hon. Jennings Randolph, a U.S. Senator from the State of West Virginia, May 2, 1973-----	244
Departmental report:	
Office of Management and Budget-----	236
Tables:	
Vending Stand Program fiscal year, 1973-----	248

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RANDOLPH-SHEPPARD ACT FOR THE BLIND AMENDMENTS OF 1973

FRIDAY, NOVEMBER 16, 1973

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED
OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 11:05 a.m. in room 4200, Dirksen Senate Office Building, Senator Jennings Randolph, chairman of the Subcommittee on the Handicapped, presiding.

Present: Senators Randolph and Stafford.

Staff members present: Robert R. Humphreys, special counsel, Committee on Labor and Public Welfare, and Michael A. Francis, legislative assistant to Senator Stafford.

Senator Randolph. Ladies and gentlemen, good morning.

Today the Subcommittee on the Handicapped begins hearings on S. 2581, the enactment of which, I believe, is essential to the growth of the program, now 37 years old, in which we are intensely interested. I order printed in the record a copy of S. 2581.

[A copy of S. 2581 follows:]

IN THE SENATE OF THE UNITED STATES

OCTOBER 13, 1973

Mr. RANDOLPH (for himself, Mr. HATHAWAY, Mr. KENNEDY, Mr. PELL, Mr. STAFFORD, Mr. TAFT, and Mr. WILLIAMS) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Randolph-Sheppard Act for the blind to provide for a strengthening of the program authorized thereunder, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That this Act may be cited as the "Randolph-Sheppard
 4 Act Amendments of 1973".

5

FINDINGS

6

SEC. 2. The Congress finds—

7

(1) after review of the operation of the blind vend-

8

ing stand program authorized under the Randolph-

9

Sheppard Act of June 20, 1936, that the program has

10

not developed, and has not been sustained, in the man-

ner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

(B) establish guidelines for the operation of the program by State licensing agencies,

(C) require coordination among the several entities with responsibility for the program,

(D) establish a priority for vending facilities operated by blind vendors on Federal property,

(E) establish administrative and judicial procedures under which fair treatment of blind ven-

dors, State licensing agencies, and the Federal Government is assured,

(F) require stronger administration and oversight functions in the Federal office carrying out the programs, and

(G) accomplish other legislative and administrative objectives which will permit the Randolph Sheppard program to flourish.

OPERATION OF VENDING FACILITIES ON FEDERAL
PROPERTY

SEC. 3. The first section of the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes" (hereafter referred to in this Act as the "Randolph-Sheppard Act"), approved June 20, 1936, as amended (20 U.S.C. 107), is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"That (a) for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal property.

1 “(b) In authorizing the operation of vending facilities
2 on Federal property, priority shall be given to blind persons
3 licensed by a State agency as provided in this Act; and the
4 Secretary, through the Commissioner, shall, after consulta-
5 tion with the General Services Administrator and other heads
6 of departments, agencies, or instrumentalities of the Federal
7 Government in control of the maintenance, operation, and
8 protection of Federal property, prescribe regulations designed
9 to assure that—

10 “(1) the priority under this paragraph is given to
11 such licensed blind persons (including assignment of
12 vending machine income pursuant to section 7 of this
13 Act to achieve and protect such priority), and

14 “(2) wherever feasible, one or more vending facil-
15 ities are established on all Federal property, to the extent
16 that any such facility or facilities would not adversely
17 affect the interests of the United States.

18 Any limitation on the placement or operation of a vending
19 facility based on a finding that such placement would ad-
20 versely affect the interests of the United States shall be fully
21 justified in writing to the Secretary, who shall determine
22 whether such limitation is justified. The Secretary shall pub-
23 lish such determination, along with supporting documenta-
24 tion, in the Federal Register.”.

1 FEDERAL AND STATE RESPONSIBILITIES

2 SEC. 4. (a) (1) Section 2 (a) of the Randolph-Shep-
3 pard Act is amended by redesignating paragraphs (1)
4 through (5) as paragraphs (2) through (6), respectively,
5 and by inserting the following new paragraph (1) :

6 “(1) Insure that the Rehabilitation Services Adminis-
7 tration is the principal agency for carrying out this Act;
8 and the Commissioner shall, within one hundred and eighty
9 days after enactment of the Randolph-Sheppard Amend-
10 ments of 1973, establish requirements for the uniform appli-
11 cation of this Act by each State agency designated under
12 paragraph (5) of this subsection, including appropriate ac-
13 counting procedures, policies on the selection and establish-
14 ment of new vending facilities, distribution of income to
15 blind vendors, and the use and control of set-aside funds
16 under section 3 (3) of this Act;”.

17 (2) Section 2 (a) (2) of such Act, as redesignated by
18 paragraph (1) of this subsection, is amended to read as
19 follows:

20 “(2) Through the Commissioner, make annual sur-
21 veys of concession vending opportunities for blind persons
22 on Federal and other property in the United States, particu-
23 larly with respect to Federal property under the control of

1 the Department of Defense and the United States Postal
2 Service;”.

3 (3) Section 2 (a) (5) of such Act, as redesignated by
4 paragraph (1) of this subsection, is amended—

5 (A) by striking out “commission” each place it ap-
6 pears and inserting in lieu thereof “agency”,

7 (B) by striking out “at least twenty-one years of
8 age”,

9 (C) by striking out “articles dispensed automati-
10 cally or in containers or wrapping in which they are
11 placed before receipt by the vending stand, and such
12 other articles as may be approved for each property
13 by the department or agency in control of the mainte-
14 nance, operation, and protection thereof and the State
15 licensing agency in accordance with the regulations
16 prescribed pursuant to the first section” and inserting
17 in lieu thereof the following: “foods, beverages, and
18 other such articles or services dispensed automatically
19 or manually and prepared on or off the premises in
20 accordance with all applicable health laws, as deter-
21 mined by the State licensing agency”,

22 (D) by striking out “stands” and “stand” and in-
23 serting in lieu thereof “facilities” and “facility”, respec-
24 tively, and

25 (E) by striking out the colon and all matter fol-

1 lowing the colon, and inserting in lieu thereof a semi-
2 colon.

3 (b) Section 2 (b) of such Act is amended—

4 (1) by striking out “stand” where it appears in the
5 first and second sentences and inserting in lieu thereof
6 “facility”;

7 (2) by striking out “and have resided for at least
8 one year in the State in which such stand is located”;
9 and

10 (3) by striking out “but are able, in spite of such
11 infirmity, to operate such stands”.

12 (c) Section 2 (c) of such Act is amended by striking
13 out “stand” in both places in which it appears and inserting
14 in lieu thereof “facility”.

15 (d) Section 2 of such Act is further amended by adding
16 at the end thereof the following new subsections:

17 “(d) (1) After June 30, 1974, no department, agency,
18 or instrumentality of the United States shall own, rent, lease,
19 or otherwise occupy, in whole or in part, any building un-
20 less, after consultation with the Secretary and the State
21 licensing agency, it is determined by the Secretary that (A)
22 such building includes a satisfactory site or sites for the loca-
23 tion and operation of a vending facility by a blind person,
24 or (B) if a building is to be constructed, substantially altered,
25 or renovated for use by such department, agency, or instru-

1 mentality, the design for such construction, substantial alter-
2 ation, or renovation, includes a satisfactory site or sites for
3 the location and operation of a vending facility by a blind
4 person.

5 “(2) The provisions of paragraph (1) shall not apply
6 (A) when the Secretary and the State licensing agency
7 determine that the number of people using the property is
8 or will be insufficient to support a vending facility, or (B)
9 to any privately owned building, any part of which is leased
10 by any department, agency, or instrumentality of the United
11 States and in which, (i) prior to the execution of such lease,
12 the lessor or any of his tenants had in operation a restaurant
13 or other food facility in a part of the building not included in
14 such lease, and (ii) the operation of such a vending facility
15 by a blind person would be in proximate and substantial
16 direct competition with such restaurant or other food
17 facility.

18 “(3) For the purposes of this subsection, the term
19 ‘satisfactory site’ means an area determined by the Secretary
20 to have sufficient space, electrical and plumbing outlets, and
21 such other facilities as the Secretary may by regulation pre-
22 scribe, for the location and operation of a vending facility
23 by a blind person.

24 “(e) In any State having an approved plan for voca-
25 tional rehabilitation pursuant to the Vocational Rehabilita-

1 tion Act or the Rehabilitation Act of 1973 (Public Law
2 93-112), the State licensing agency designated under para-
3 graph (5) of subsection (a) of this section shall be the State
4 agency designated under section 101(a) (1) (A) of such
5 Rehabilitation Act of 1973.”.

6 DUTIES OF STATE LICENSING AGENCIES AND ARBITRATION

7 SEC. 5. (a) Section 3 of the Randolph-Sheppard Act
8 is amended—

9 (1) by striking out “commission” and inserting in
10 lieu thereof “agency”;

11 (2) by striking out in paragraphs (2) and (3)
12 “stand” and “stands” and inserting in lieu thereof “faci-
13 lity” and “facilities”, respectively;

14 (3) by inserting in paragraph (6) immediately be-
15 fore the period the following: “, and to agree to submit
16 the grievances of any blind licensee not otherwise re-
17 solved by such hearing to binding arbitration as pro-
18 vided in section 5 of this Act”.

19 (b) Section 3 (3) of such Act is further amended by
20 striking out “and” immediately before subparagraph (D)
21 and by inserting immediately before the colon at the end
22 of such subparagraph the following “; and (E) retirement
23 or pension funds, health insurance contributions, and pro-
24 vision for paid sick leave and vacation time, if it is deter-
25 mined by a majority vote of operators licensed by such State

1. agency that funds under this paragraph shall be set aside
2 for such purposes”.

3 REPEALS

4 SEC. 6. Sections 4 and 7 of the Randolph-Sheppard
5 Act are repealed.

6 ARBITRATION; VENDING MACHINE INCOME; PERSONNEL;

7 TRAINING

8 SEC. 7. The Randolph-Sheppard Act is further amended
9 by redesignating sections 5, 6, and 8, as sections 4, 9, and
10 10, respectively, and by inserting immediately after sec-
11 tion 4, as redesignated, the following new sections:

12 “SEC. 5. (a) Any blind licensee who is dissatisfied with
13 any action arising from the operation or administration of
14 the vending facility program may file a complaint with the
15 Secretary who shall convene a panel to arbitrate the dis-
16 pute pursuant to section 6 of this Act, and the decision of
17 such panel shall be final and binding on the parties except
18 as otherwise provided in this Act.

19 “(b) Whenever any State licensing agency, desig-
20 nated as such by the Secretary under this Act, determines
21 that any department, agency, or instrumentality of the United
22 States that has control of the maintenance, operation, and
23 protection of Federal property is failing to comply with the
24 provisions of this Act or any regulations issued thereunder
25 such licensing agency may file a complaint with the Secre-

1 tary who shall convene a panel to arbitrate the dispute
 2 pursuant to section 6 of this Act, and the decision of such
 3 panel shall be final and binding on the parties except as
 4 otherwise provided in this Act.

5 "SEC. 6. (a) Upon receipt of a complaint filed under
 6 section 5 of this Act, the Secretary shall convene an ad
 7 hoc arbitration panel as provided in subsection (b). Such
 8 panel shall, in accordance with the provisions of subchap-
 9 ter II of chapter 5 of title 5, United States Code, give notice,
 10 conduct a hearing, and render its decision which shall be
 11 subject to appeal and review as a final agency action for
 12 purposes of chapter 7 of such title 5.

13 "(b) (1) The arbitration panel convened by the Secre-
 14 tary to hear grievances of licensed blind persons shall be
 15 composed of three members appointed as follows:

16 "(A) one individual designated by the State licens-
 17 ing agency;

18 "(B) one individual designated by the licensed
 19 blind operators; and

20 "(C) one individual, who shall serve as chairman,
 21 jointly designated by the members appointed under sub-
 22 paragraphs (A) and (B).

23 If any party fails to designate a member under subpara-
 24 graph (A), (B), or (C), the Secretary shall designate
 25 such member on behalf of such party.

1 “(2) The arbitration panel convened by the Secretary
2 to hear complaints filed by a State licensing agency shall be
3 composed of three members appointed as follows:

4 “(A) one individual, designated by the State li-
5 censing agency;

6 “(B) one individual, designated by the head of the
7 Federal department, agency, or instrumentality con-
8 trolling the Federal property over which the dispute
9 arose; and

10 “(C) one individual, who shall serve as chairman,
11 jointly designated by the members appointed under sub-
12 paragraphs (A) and (B).

13 If any party fails to designate a member under paragraph
14 (2) (A), (B), or (C), the Secretary shall designate such
15 member on behalf of such party. If the panel appointed
16 pursuant to paragraph (2) finds that the acts or practices
17 of any such department, agency, or instrumentality are in
18 violation of this Act, or any regulation issued thereunder,
19 the head of any such department, agency, or instrumentality
20 shall cause such acts or practices to be terminated promptly
21 and shall take such other action as may be necessary to
22 carry out the decision of the panel.

23 “(c) The decisions of a panel convened by the Secre-
24 tary pursuant to this section shall be matters of public record
25 and shall be published in the Federal Register.

1 “SEC. 7. (a) Except as otherwise provided in this sec-
2 tion, all vending machine income obtained from the operation
3 of vending machines on Federal property shall accrue (1)
4 to the blind licensee operating a vending facility on such
5 property, or (2) in the event there is no blind licensee
6 operating such facility on such property, to the State agency
7 in whose State the Federal property is located, for use, in
8 accordance with regulations the Commissioner shall pre-
9 scribe, in the training required under section 9 of this Act,
10 and for the purposes specified in section 3 (3) of this Act:
11 *Provided, however,* That with respect to income which ac-
12 crues under clause (1) of this subsection, the Commissioner
13 may prescribe regulations imposing a ceiling on income from
14 such vending machines for an individual blind licensee, and
15 any surplus shall accrue pursuant to clause (2) of this sub-
16 section. This proviso shall not apply to income from vending
17 machines which are maintained, serviced, or operated by a
18 blind licensee.

19 “(b) Subsection (a) shall not apply, with respect to
20 income from vending machines on Federal property, which
21 machines were leased, or such income was provided, under
22 contract to any person, group, or association on September 1,
23 1973, for a period of three years following the date of
24 enactment of the Randolph-Sheppard Act Amendments of

1 1973, or the date of expiration of such contract, whichever
2 period is shorter.

3 “(c) Subsection (a) shall not apply, with respect to
4 income from vending machines on Federal property, which
5 machines were owned by any person, group, or association
6 on September 1, 1973, for a period equal to the remaining
7 depreciable life of such machines, or for a period of three
8 years following the date of enactment of the Randolph-
9 Sheppard Act Amendments of 1973, whichever period is
10 shorter.

11 “(d) In the case of vending machines the depreciable
12 life of which, or the contract with respect to the leasing or
13 furnishing of income of which, expires after the three-year
14 period set forth in subsections (b) and (c), the Secretary
15 of the Treasury shall compensate the person, group, or asso-
16 ciation owning or contracting for such machines in an amount
17 which reasonably represents the fair value of such deprecia-
18 ble life or contract; except that any such compensation shall
19 be reduced by an amount, if any, equal to the proceeds from
20 the sale, or premature termination of the contract, of such
21 machines.

22 “(e) This section shall apply only with respect to
23 vending machines on Federal property which is an office
24 or workplace used to conduct Federal Government business.

25 “(f) The Secretary shall take such action and promul-

1 gate such regulations as he deems necessary to assure com-
2 pliance with this section.

3 “SEC. 8. The Commissioner shall insure, through pro-
4 mulgation of appropriate regulations, that uniform and effec-
5 tive training programs, including on-the-job training, are
6 provided for blind individuals, through services under the
7 Rehabilitation Act of 1973 (Public Law 93-112) or under
8 this Act. He shall further insure that State agencies provide
9 programs for upward mobility (including further education
10 and additional training or retraining for improved work
11 opportunities) for all trainees under this Act, and that fol-
12 low-along services are provided to such trainees to assure
13 that their maximum vocational potential is achieved.”.

14 DEFINITIONS

15 SEC. 8. Section 9 of the Randolph-Sheppard Act, as re-
16 designated by section 7 of this Act, is amended to read as
17 follows:

18 “SEC. 10. As used in this Act—

19 “(1) ‘blind person’ means a person whose central
20 visual acuity does not exceed 20/200 in the better eye
21 with correcting lenses or whose visual acuity, if better
22 than 20/200, is accompanied by a limit to the field
23 of vision in the better eye to such a degree that its wid-
24 est diameter subtends an angle of no greater than twenty
25 degrees. In determining whether an individual is blind,

1 there shall be an examination by a physician skilled in
2 diseases of the eye, or by an optometrist, whichever the
3 individual shall select;

4 “(2) ‘Commissioner’ means the Commissioner of
5 the Rehabilitation Services Administration;

6 “(3) ‘Federal property’ means any building, land,
7 or other real property owned, leased, or occupied by any
8 department, agency, or instrumentality of the United
9 States (including the Department of Defense and the
10 United States Postal Service), or any other instrumen-
11 tality wholly owned by the United States, or by any
12 department or agency of the District of Columbia or any
13 territory or possession of the United States;

14 “(4) ‘Secretary’ means the Secretary of Health,
15 Education, and Welfare;

16 “(5) ‘State’ means a State, territory, possession,
17 Puerto Rico, or the District of Columbia;

18 “(6) ‘United States’ includes the several States,
19 territories, and possessions of the United States, and
20 the District of Columbia;

21 “(7) ‘vending facility’ means (A) automatic vend-
22 ing machines, snack bars, cart service, shelters, counters,
23 and such other appropriate auxiliary equipment as the
24 Secretary may by regulation prescribe as being necessary
25 for the sale of the articles or services described in section

8 “(8) ‘vending machine income’ means that por-
9 tion of the gross receipts from the operation of a vending
10 machine on Federal property that normally accrues as
11 a commission to the person operating, servicing, or
12 maintaining a vending machine.”.

SEC. 9. (a) The Secretary of Health, Education, and Welfare is directed to assign to the Division of the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education, and Welfare ten additional full-time personnel (or their equivalent), five of whom shall be supportive personnel, to carry out duties related to the administration of the Randolph Sheppard Act.

(1) by striking out “and” at the end of paragraph
(10);

1 (2) by striking out the period at the end of para-
2 graph (11) and inserting in lieu thereof “; and”; and

3 (3) by adding after paragraph (11) the following
4 new paragraph:

5 “(12) the Secretary of Health, Education, and
6 Welfare, subject to the standards and procedures pre-
7 scribed by this chapter, may place one additional posi-
8 tion in the Division of the Blind and Visually Handi-
9 capped of the Rehabilitation Services Administration in
10 GS-16, GS-17, or GS-18.”.

11 (c) In selecting personnel to fill any position under this
12 section, the Secretary of Health, Education, and Welfare
13 shall give special consideration to blind individuals.

Throughout the country I think perhaps many people do not realize there is a reservoir of talented and capable, but in many cases unemployed, blind persons, men and women, who could successfully begin careers of productivity, especially in the field of selling, if they are given the opportunity to do so.

Federal rehabilitation personnel have indicated as late as 1962 that some 40,000 blind men and women could engage in the operation of vending facilities in Federal and other buildings, including State and county and the city structures, as well as private ones. Of course there are other locations which might sustain blind vendor operations, such as our national forests, national parks and in other locations.

Now of course if they had the training, someone says, they could do it, and if the jobs, others say, were available for them they could do it. I want to underscore that we can have such a training program. We have had such a training program and there are jobs, of course, jobs which are available and jobs which create themselves, in fact, for the blind.

I can see no reason why that figure I have given you of 40,000 is not a realistic one. I think that there are at least 500 veterans of the Vietnamese conflict who have been blinded, and these persons form a part of that reservoir of which I spoke.

The program I think would give a very meaningful opportunity for these individuals, many of them as I have said veterans of the conflict in Southeast Asia, and they would have the chance, and they have the right to have that chance, if we could produce a program which is meaningful, to have a more productive life, a happier life, yes, a more dignified life.

The program has been developed through State licensing agencies. In the local and State Governments, and of course as I have indicated the private sector, these programs have moved constructively, and figures of employment and entrepreneurship are well known. But at the Federal level—and this is the level that I think we must concentrate on in these hearings—in the Federal sector of our government, the program has languished.

It has been very much too slow in bringing the results which should be attained. I think this is a sad irony. I do not want to cry about it here today, but I do want to express my sadness about the irony of the Federal Government as contrasted with the other levels of government and also the private sector in using this program to the advantage of blind persons.

It was designed through legislation in 1936. But as a Federal program, why the growth especially in recent years has been outside the Federal Government. I think we can use some figures at the beginning of this hearing which will be meaningful.

In fiscal year 1971 there were 881 blind vending facilities on Federal property. Now in the fiscal year 1972 there were 878 facilities for people doing this important work. At the end of the fiscal year 1973 there were 874 of these facilities. So you can and do understand from those facts that we are making no progress. We are even experiencing a slippage.

Now this trend is not looked upon with favor by the members of the Handicapped Subcommittee. Certainly I think many members of the Congress, certainly the members of the Senate Labor and Public Wel-

fare Committee, of which this subcommittee is a part, are intensely interested. I have a very personal and official concern which is very deep. I use this word not in any sense to indicate that we are interested in a confrontation, but I can say it is our intention to reverse this trend which I have spoken of during this morning.

The absence of available jobs, combined with the very, very large number of willing and able applicants, why this in a sense I think is a waste of manpower, a waste of womanpower, a waste of lives, and certainly money can be created by these people in the way of their good living. Certainly here is a human resource which must be called on in greater degree.

I think it is generally accepted that the number of persons who operate these facilities, if the program could be expanded, would double within 5 years.

Now the limitations which hamper the program must be removed. It is my earnest hope and I know it is shared by many others that these barriers, and they are barriers, frankly most of them are artificial barriers, they can be ripped aside and that is the purpose of pending legislation. If we adopt this legislation, I am sure it would be signed into law by the President, and we are at a point now of moving ahead with the hearing stage in this important area.

This is the third time in recent years, ladies and gentlemen, that I have brought forward measures to improve the act. In the first instance, S. 2461 was introduced on June 20, 1969. I well recall that it was June 20, 1936, when the act was signed into law, the first, the original legislation, by President Franklin Roosevelt. So that the date insofar as I was concerned, was important—it was 33 years later that we were attempting to move forward, thinking in terms of the first act in 1936.

Now that measure was passed. I want to impress this on our guests today. It was passed by the Senate without a dissenting vote. Now it was late in the session and for one reason or another, and I am not critical, the House failed to act. It was on September 14, 1971, that I introduced S. 2506. Hearings were held on the measure, and it was attached at a later date to the Senate version of the Rehabilitation Act which was being considered at that time.

Now the Senate adopted the Rehabilitation Act and we included in that adoption the substance of S. 2506. We then, of course, were faced with the conference with the House and it was determined that the amendments were not germane under House rules, that they probably would be subject to a point of order. I frankly would be very sorry for a point of order if it were made, but it seemed best to think in terms of moving at another point.

So for the time we agreed to the elimination of the amendments, with the understanding that both Houses of Congress would work on the needed changes in the act and do it as quickly as possible.

Now in connection with this review of the legislation in 1972 our Subcommittee on the Handicapped adopted a resolution in which we asked the Comptroller General of the United States to study the sources and uses of vending machine income on Federal property.

Now that study was published in September of this year, the 27th was the date it became public.

This morning, as our first witness, we have from the General Accounting Office and its Manpower and Welfare Division, those who have developed the study. We have asked the witness, the first witness to appear to review the conclusions of the study, to provide the position of GAO with respect to this pending bill, S. 2581, and to answer questions which we have, which we feel should be thoroughly explored.

Gregory Ahart, Director, is our first witness. Mr. Ahart, you may wish at this time to identify those associated with you and sitting at the witness table.

STATEMENT OF GREGORY AHART, DIRECTOR, MANPOWER AND WELFARE DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY FRANKLIN CURTIS, ASSOCIATE DIRECTOR; MATTHEW SOLOMON, SUPERVISORY AUDITOR; AND BARRY BEDRICK, OFFICE OF GENERAL COUNSEL

Mr. AHART. Thank you, Mr. Chairman. To my immediate right is Mr. Franklin Curtis, Associate Director of the Manpower and Welfare Division and Mr. Matthew Solomon, Supervisory Auditor of this division.

To my left is Mr. Barry Bedrick, Office of General Counsel.

We are pleased to appear here today to discuss the results of our review of vending operations on federally controlled property and to provide comments on S. 2581, the proposed Randolph-Sheppard Act Amendments of 1973.

The objectives of our review, made at the request of the subcommittee, were to:

Determine the types of vending operations on federally controlled property, their locations and who controls them;

Determine the gross and net receipts for the operations reviewed and the use made of net receipts;

Determine whether blind persons have been given preference as provided in the Randolph-Sheppard Act for operating vending stands on federally controlled property, including assignment of vending machine income to achieve and protect such preference;

Estimate the potential for expanding blind vendor operations on federally controlled property; and

Review State and Federal administration of the blind vendor program authorized by the Randolph-Sheppard Act, as amended.

Because of the large number of operations on federally controlled property, we attempt to select a sample for review which would provide a good cross section of the program. The sample was comprised of operations at military installations, postal facilities, and federally controlled buildings in the Washington, D.C., area and in other areas of the country. We also did work at State agencies responsible for administering the Randolph-Sheppard program and at HEW regional and headquarters offices.

The results of our review were furnished to the subcommittee in a report dated September 27, 1973. I might, Mr. Chairman, with your permission, offer a copy of that report for the record.

[GAO report reprinted as Appendix on page 252.]

In our report, we described our findings at military installations and Postal Service facilities, and at other federally controlled buildings, and our findings concerning administration of the program at the State and Federal level. We also included in the report certain matters which we felt should be given consideration in deliberations on legislative or administrative revision of the blind vending program.

I would like to briefly summarize the findings included in the report and then discuss briefly the relationship between the matters we suggested should be considered and the provisions of S. 2581.

As will become clear, certain competing interests have had the effect of limiting the expansion of the blind vendor program. Among these competing interests, vending operations conducted by or on behalf of employee groups or employee recreation and welfare programs are important. Accordingly, I might cite some history regarding the position of the General Accounting Office with respect to such operations.

Existing legislation—31 U.S.C. 484—provides that all moneys received from whatever source for the use of the United States shall be paid into the Treasury, unless disposition of these moneys is specifically provided for in 31 U.S.C. 487. Disposition of proceeds from nonblind vendor operations is not specifically provided for in that section.

In a report to the Congress, dated August 10, 1949—B-45101—on our audit responsibilities with regard to employee associations, we stated that problems had been caused by the tremendous growth of income and expenditures incident to the activities of various employee recreation and welfare groups, withholding of such nonappropriated funds from the Treasury, and views of many departments that such moneys withheld are outside the purview of existing statute requiring the deposit of funds into the Treasury.

Because of the importance of welfare and related activities in the Government service and because literal compliance with the statutes requiring deposit of all receipts into the Treasury was impracticable in some instances, the report recommended the enactment of clarifying legislation to reform and regulate "the entire haphazard structure of so-called welfare activities in the departments and establishments of the Government * * *."

As our General Counsel testified before the Subcommittee on Handicapped Workers in October 1971, in the absence of clarifying legislation, GAO has, since 1952, followed a policy of not objecting to the retention of vending machine proceeds by authorized Federal employee groups. GAO's basic position that clarifying legislation is needed has not changed, however, and has been reinforced by the data obtained during our review.

Such legislation could define the terms and conditions under which employee recreation or welfare groups may engage in vending operations, including situations where such operations may conflict with the objective of the blind vending program, and permissible uses of proceeds derived from such operations. Also, a requirement to disclose the financial results of vending operations could be established.

The subcommittee may wish to consider how the absence of general legislation on this matter impacts on the Randolph-Sheppard program and consider the possibilities of having action initiated toward enacting clarifying legislation.

I will now briefly summarize our findings.

Vending operations in the Department of Defense are extensive but its regulations support and encourage vending operations that benefit the recreation and welfare programs of its personnel. Military officials said expansion of blind vendor operations could reduce money available for these programs. State agency officials said that their efforts to establish blind vendor operations at military locations have often been limited because military officials have not been receptive to the idea.

Senator RANDOLPH. Why not?

Mr. AHART. I think their main concern, Mr. Chairman, is that money which would be derived from blind vending operation would otherwise be available for vending operations which support their recreation and welfare programs for military personnel. It is a case of conflicting interests, the interests of supporting the blind program as opposed to the in-house programs of the Department of Defense.

Senator RANDOLPH. The in-house programs are in the nature let us say, those created by an agency without law, is that correct?

Mr. AHART. There is no general legislation which controls the creation of employee-type vending operations. We have felt, since 1949, that such legislation was and is necessary.

Senator RANDOLPH. You are having a so-called regulatory program come face to face with a program that is part of organic law?

Mr. AHART. That is essentially correct.

Senator RANDOLPH. That is the thrust of what we have attempted over and over again to have understood by people. Certainly I am sure no member associated with this effort in our subcommittee would want programs of recreation, whatever they may be within an agency, to be curtailed. But that is a matter for the organization, the recreational program to work out itself, without having the necessity, or the necessity which they feel exists, those who operate these programs, to take from the blind the opportunities that they have in connection with the operation of their stands. Would you agree with that statement?

Mr. AHART. Yes, Mr. Chairman. I would. I think part of the problem here has been the existing Randolph-Sheppard Act uses such language that the blind vending program will not operate where it unduly inconveniences the agency concerned. I think this is part of the philosophy of the Department of Defense. Blind vending operations are seen as interfering with the recreation programs for DOD employees thereby inconveniencing the Department of Defense.

Of course, S. 2581 would change that language, would eliminate the unduly inconvenience language, and also require written justification of adverse interest to the U.S. Government, if that was the determination of the agency concerned. It would strengthen it greatly in that regard.

Senator RANDOLPH. Mr. Ahart, you may have noted that bell sound which means we must go to the Senate Chamber for a rollecall vote. It is another of the amendments on which Senate Members are voting on the emergency powers under the energy crisis. That is the reason that I must leave this hearing. There is no reason for the hearing to be delayed. I am going to ask Mr. Robert R. Humphreys, special counsel to the committee, and others of the staff, to move forward.

We have a series of questions which will be helpful to clarify the situation in reference to S. 2581. I do want, for the record, to indicate

that I have 35 Senators who are cosponsoring this legislation. Their names are on S. 2581.

So there is a very, very considerable concern by the Members of the Senate as to what has been happening over the years and what we should do to correct that, and we are hoping that this legislation can be the instrument by which that can be carried forward. I will return just as quickly as I can.

We may have, of course, continuing rollcalls. There is no time limitation on these amendments. They are calling them up without limitation. One might take 10 minutes, and another an hour and a half. I will ask you, Mr. Ahart, you and your associates, to continue, and the hearing will not be delayed.

Mr. AHART. Consequently, if progress on behalf of the blind is to be made, military officials must be more willing to grant vending operation permits to blind persons, and State agency officials must increase their efforts to contact military officials for new permits.

Blind vendor stands are operated in some post office lobbies. Most vending operations at postal facilities, however, are located in or near work areas and are controlled by employee welfare associations.

A Postal Service internal audit report, dated June 1971, concluded that management attention given to vending operations had not been sufficient to insure compliance with Federal policies and regulations.

Expanding the program will depend on postal officials' attitudes about establishing blind vendor operations on postal property and assigning income to blind vendors. State agency officials must also be more active in dealing with Postal Service officials on these matters.

Blind vendor operations are more prevalent in other federally controlled buildings than at Postal Service or DOD installations. However, even here, certain activities compete with the blind vendor program. Priorities among competing interests—the blind, minority enterprises, employee associations, and cafeteria operators—should be established.

Significant differences exist in how the program is carried out from State to State. The types and duration of training provided to blind persons selected to become vendors and to persons already operating vending stands vary.

Inconsistencies exist in methods used by the State agencies to determine how income from competing vending operations will be shared with blind vendors. In many instances no income-sharing arrangements existed.

States' policies for setting aside portions of the revenue from blind vendors' operations to support the program in various ways—such as purchasing equipment, providing management services and assuring a fair minimum return to blind vendors—vary as to how much each operator must contribute and how the fund is used. Some States do not set aside funds.

HEW recognizes the need for providing program guidelines or standards and for making more evaluations of State agency operations but says these actions cannot be undertaken because of insufficient staff.

I will now turn to the matters which we suggested for consideration in any legislative or administrative revision of the program and their relationship to the provisions of S. 2581. The matters which we suggested for consideration were:

(1) The circumstances under which blind persons should be given preference in establishing and operating vending facilities.

(2) That agencies do not always assign vending machine income as provided by the Randolph-Sheppard Act and use different methods when making assignments.

(3) The extent States use set-aside funds, the differences in methods of computing blind vendors' contributions, and the activities for which set-aside funds can be used.

(4) That the Randolph-Sheppard Act does not require the program to be evaluated periodically or reports to be submitted to the Congress by HEW or any other Federal agencies that control, operate, or maintain Federal property and approve installation of blind vendor operations.

(5) A requirement that HEW, under the authority vested in it by Executive Order No. 11609, review the rules and regulations of the various Federal agencies to insure that agencies adequately provide the preference that blind persons are entitled to in operating vending stands on Federal property.

(6) The issue of HEW and the States having no recourse from Federal agency decisions regarding blind-vendor facilities on property they control, which was brought out in hearings to amend the Randolph-Sheppard Act held before the Subcommittee on Handicapped Workers, Senate Committee on Labor and Public Welfare, in October and December, 1971. The proposed amendments were not enacted into law, and as a result HEW and State agencies are still without recourse.

The provisions of S. 2581 clearly deal with the first two matters. They would substantially strengthen the preference given to blind persons in establishing and operating vending facilities and would require the assignment of all vending machine income, after the end of the 3-year period, to the benefit of the blind program.

We would like to suggest, however, that during its deliberations on S. 2581, the subcommittee consider the relationship of the Randolph-Sheppard program to the activities carried out by the Veterans Canteen Service. The Veterans Canteen Service is specifically authorized by law to make available to veterans, who are hospitalized or domiciled in hospitals or homes of the Veterans' Administration, at reasonable prices, articles of merchandise and services essential to their comfort and well-being.

The bill also would provide, in section 4, for the third matter by directing the establishment of requirements for the uniform application of the act by each State agency, including appropriate policies governing the use and control of set-aside funds. We would suggest, however, that a provision for uniformly determining contributions to set-aside funds be included in this section of the bill.

The fifth matter would appear to become moot with the enactment of S. 2581, since the authority to issue regulations would be vested in the Secretary of Health, Education, and Welfare rather than in the individual departments and agencies which own or control Federal property. It is evident that once any regulations have been issued under this authority, internal department and agency regulations and instructions would need to be revised to conform therewith.

However, in the event that this provision is not enacted, we believe that the approval authority now vested in the Secretary of HEW permits him to require revisions to any previously approved regulations which are not considered to meet the intent of the Randolph-Sheppard Act.

The sixth matter is dealt with in the bill through the provision for binding arbitration proceedings to resolve grievances arising either from State licensing agencies or blind licensees. It is not clear, however, whether arbitration proceedings would have application to determinations made by the departments or agencies in control of Federal property or by the Secretary of Health, Education, and Welfare, that the establishment of a blind-operated vending facility would be adverse to the interests of the United States.

The bill does not address the fourth matter concerning periodic evaluation of the program and reports thereon to the Congress by HEW. We suggest that this matter be given consideration by the subcommittee in its deliberations on the bill.

The following additional comments on S. 2581 are offered for your consideration.

Section 3 of the bill, which deals with the operation of vending facilities on Federal property, provides that any limitation on the placement or operation of a vending facility based on a finding that such placement would adversely affect the interests of the United States, shall be fully justified in writing to the Secretary of HEW who will then determine whether such limitation is justified.

The bill does not state, however, whether the Secretary's determination in the matter will be binding on the department or agency which controls the property concerned. Also, as I previously mentioned, it is not clear from the bill whether the arbitration procedures would be applicable to such determinations. The subcommittee may wish to clarify these matters.

Also, regarding the arbitration process, the Randolph-Sheppard Act now requires a State licensing agency to provide any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending stand program, an opportunity for a fair hearing.

Section 5 of the bill which amends existing section 3(6) of the act would provide for the State licensing agency to agree to submit any unresolved grievances of any blind licensee to binding arbitration. We do not object to this provision. However, section 7 of the bill, which would amend section 5 of the act contains no provision that the blind licensee must avail himself of the fair hearing process at the State level before filing a complaint with the Secretary for submission to the arbitration panel process.

We suggest that section 7 of the bill be amended to include such condition. Also, there seems to be some conflict as to whether the State licensing agency or the blind licensee should submit the grievance to the Secretary.

Section 4(a)(1) of the bill proposed that the Rehabilitation Services Administration establish requirements within 180 days of the bill's enactment for uniform application of various matters by State agencies. The subcommittee might wish to consider adding a requirement

that the State agencies provide support or documentation to HEW within a specified time to show that they have taken action to meet such requirements.

Section 4(d)(1) provides that a Federal organization cannot own, rent, lease or otherwise occupy all or a part of a building until it has consulted with the Secretary of HEW and the State licensing agency, and such building includes a satisfactory location for the operation of a blind vendor facility.

Such a requirement could prove cumbersome in its execution. During our review, State agency officials indicated that they were experiencing problems in learning of agency relocations and property acquisitions and renovations in time to negotiate for adequate space for a blind vendor facility. We believe, however, that this situation could be improved if Federal agencies were required to notify State agencies of their plans in sufficient time for State agency officials to determine the desirability of the location for a blind vendor facility and to request that adequate provision for such a facility be included in the design, construction, or major renovation of buildings to be acquired for Federal use.

Section 5(b) of the act specifies that the Secretary of HEW shall in employing additional personnel assure that at least 50 percent of such additional personnel shall be blind. Section 9 of the bill directs the Secretary of HEW to assign additional personnel to the Division of the Blind and Visually Handicapped and to give special consideration to blind persons in filling these positions. The differences in language in these two provisions may cause problems of interpretation and should be clarified.

Our office has traditionally held the view that legislation should vest program authority and responsibility in the head of the department or agency concerned, with authority to delegate such authority and responsibility and to organize for the administration of the program as best meets program needs over time.

In this regard, we note that the bill would require that the Secretary prescribe regulations through the Commissioner of the Rehabilitation Services Administration—section 3—that the Rehabilitation Services Administration be the principal agency for carrying out the program—section 4(1)—that the Secretary make annual surveys of concession vending opportunities for blind persons through the Commissioner—section 4(2)—and that the Commissioner is authorized to prescribe regulations directly in sections 7 and 8 of the bill.

We suggest that the subcommittee consider whether such limitations on the Secretary's authority and responsibility are necessary.

In a similar vein, section 9(a) of the bill directs the Secretary of HEW to assign 10 additional persons to the Division of the Blind and Visually Handicapped, five of whom are to be supportive personnel, to carry out duties related to administering the blind vendor program. Although it appears some additional staffing would be necessary to carry out actions which HEW officials agreed should be taken under the existing program or to perform the functions which might be required through amended legislation, we believe it would be more appropriate to allow staffing to be flexible in order to meet the changing administrative needs rather than increase staff through legislative directive.

The legislative history of the bill could clearly show an expectation that the Secretary would assign adequate staff to administer the program.

This concludes my prepared statement. We would be pleased to respond to any questions that members of the subcommittee may wish to ask.

Mr. HUMPHREYS. Thank you, Mr. Ahart. On behalf of the chairman, I will continue as if he were here and proceed with questions on your statement.

First, among the conclusions reached in your report, you stated that State licensing agencies had not been aggressive in finding new sites for blind vendor locations. Do you think S. 2581 cures this problem, and if not, what additional legislative or administrative recommendations would you make?

Mr. AHART. Well, certainly the provisions of S. 2581 taken as a whole would provide a substantial encouragement to State agencies to act aggressively with respect to locating sites for blind vendor operations in buildings under control of GSA, postal facilities, and military installations. I think the comments in our report and in our testimony concerning their efforts were basically concerned with postal service and military installations.

I think the situation there was that State officials wanted to put their manpower in areas where they might do the most good and where they met the least resistance. The mandatory provisions such as the one providing for all vending machine income to be assigned to the benefit of the blind program, and the provision concerning the placement of suitable facilities in each new building, should make it easier for the State agencies to secure appropriate vending facilities with respect to both postal service and the military installations.

I think if we were to suggest any additional administrative requirements, we think it might be useful, if in going forward with the program, HEW would require State agencies to set out in their State plans some quantitative goals they hope to achieve in terms of establishing new sites for blind vendors. Also HEW should monitor State agencies' progress in relation to those goals.

Mr. HUMPHREYS. This is in line with that portion of your statement that recommended a reporting procedure on behalf of HEW on the program periodically?

Mr. AHART. It would be consistent with that.

Mr. HUMPHREYS. Are there any specific guidelines or recommendations that should be imposed by HEW on the State agencies, other than those you have mentioned?

Mr. AHART. No; I think not beyond establishing specific goals that the State agencies should seek to achieve and monitoring their progress against those goals.

Mr. HUMPHREYS. But you do think that uniform application of the program throughout the country is necessary and appropriate, do you not?

Mr. AHART. Certainly more uniformity than we found in our review would be appropriate.

Mr. HUMPHREYS. GSA regulations provide for sharing of vending income between blind vendors and employee welfare and recreation groups, and other agencies have similar regulations. But according

to your report the agencies have not applied these uniformly or adequately. You even report that blind vendors in some cases are required to share their profits with employee associations. Do you think HEW should set regulations in this area for all agencies uniformly, and do you think S. 2581 should be more explicit on this point?

Mr. AHART. Well, first of all, if the provisions of S. 2581 are enacted, I think that the mandatory assignment on an overall basis of vending machine income would really render moot some of the concern we have as a result of our review. There would still be a need, of course, to regulate that area during the 3-year transition period before that provision takes full effect.

There would be need after that time to set by regulations what limits should be placed upon what an individual blind vendor might receive as his share of assigned income.

Mr. HUMPHREYS. In connection with the set-aside funds, I have a number of questions to ask on behalf of the chairman.

First, do you think that a uniform standard on the application of set-aside funds and their use, and the general requirements for such standards to be administered on a national level, is realistic and feasible?

Mr. AHART. Well, I think the areas that are of most concern here are the methods by which blind vendors contribute to set-aside funds and how the funds are used—particularly with regard to their use in supplementing the income of blind vendors. Some States do not use it for that purpose. Other States have different standards and so on. I think if the objective of the program is to assure the blind vendors a living wage, some regulation and uniformity in that regard is certainly desirable.

On the other end of it, the extent to which the blind vendors are required to contribute to the fund, I think there are needs for standards there. Under present State set-aside contribution schedules approved by the Secretary of HEW, a blind vendor could be required to contribute as much as 10 percent of his gross income, or as little as 4 percent of his net income. I think existing law does have a provision which authorizes the Secretary of HEW to set a maximum beyond which the State cannot draw contributions into the set-aside fund. We believe that this area needs some attention.

Mr. HUMPHREYS. Do you think that existing provision though is adequate to make a national standard apply throughout the States with respect to the specific contribution levy on blind vendors by each State?

Mr. AHART. Existing provision only applies, of course, to maximum contribution. I think there is probably need for careful study and consideration as to the appropriate base for contributions, whether it be gross income or whether it be net income or whether some other basis might be appropriate. Changes could be made through regulation, if the proper study was done, rather than through legislation.

Mr. HUMPHREYS. Do you feel there should be a study conducted prior to the establishment—

Mr. AHART. Yes; I think it would need more consideration than we have given to the matter to come up with the proper formula.

Mr. HUMPHREYS. Your report suggests that State agency officials often take the line of least resistance when seeking new stand loca-

tions. Postal and military instances have been mentioned. How can we inculcate more aggressiveness in State agency officials?

Mr. AHART. As I mentioned, I think the main thrust of the amendments that have been proposed would give the State officials more incentive to aggressively seek the placement of blind vendors in both military and Postal Service installations. Again I think if we had the requirement that I mentioned establishing quantified goals in how many vending stands should be placed in a given State, whether it be postal facilities or military installations and monitoring against those goals, I think that would serve to increase their aggressiveness in dealing with the military establishment and the Postal Service.

Mr. HUMPHREYS. Now, moving to the questions regarding the military installations, I note that there are 490 military installations within the United States. The Department of Defense has 4 blind vending stands, the Air Force has 9, the Army has 17, and the Navy has 16. I presume the Marine Corps has none.

On the sole basis of potential revenue generation, how many of the 490 installations could conceivably support one or more vending stands?

Mr. AHART. We certainly do not have the information, Mr. Humphreys, to make any precise judgment on that. From six installations we visited during our review in consultation with State agency officials, it was apparent that at those installations, one or more potential sites existed which could support blind vending operations. My judgment would be there is a substantial number of opportunities within those 490 installations, beyond the 46 that were in existence at the end of 1972.

Mr. HUMPHREYS. Would you suggest that the Defense Department in conjunction with the State licensing agency and HEW conduct a survey of military installations to try to ascertain how many could be supported?

Mr. AHART. I think certainly under the provisions that are included in S. 2581, there would be that responsibility to survey for these opportunities and to try to work out the arrangements between the installations and the State licensing officials, to get blind vending establishments in place.

Mr. HUMPHREYS. Your report indicates that military officials generally have less than a fully cooperative or sympathetic attitude toward the Randolph-Sheppard program. In your opinion is there any reason why defense installations should be treated differently from other Federal locations under the Randolph-Sheppard Act?

Mr. AHART. Well, again we get to the problem of competing interests, Mr. Humphreys, with the tradition in the military of the recreation and other programs that they have, which are supported largely by vending-type operations. I think it is really a judgment that has to be made and it is a judgment in the final analysis I think that would have to be made by the Congress to really referee these competing interests and give blind vendors the preference which Congress intends them to have.

Senator RANDOLPH. Mr. Ahart, you are familiar with S. 2581, at least in a general way. Would you believe that if this becomes law that we could provide the type of stimulus that you yourself have expressed must come from the Congress, and if you feel you could give

your opinion, would there be substantially greater number of facilities for the blind that would be installed perhaps in the military installations that you have discussed?

Mr. AHART. Well, I think certainly, Mr. Chairman, based on the limited information we obtained at six military installations, that there are quite a number of opportunities for blind vending operations in military establishments. I think certainly the provisions of S. 2581 in its present form, if enacted, would provide a stimulus, as you mention, to break down some of the barriers which the State agencies have faced in the past. Also, it will express congressional intent as to relative priority to be given to the blind vendors on military and other federally controlled property. So I think certainly there would be that impetus provided.

Senator RANDOLPH. Let us move to postal facilities from the military installations. Although there are more blind vendors situated in post offices, 228, than in any Federal agency other than GSA-controlled buildings, your report indicates a reluctance on the part of postal officials to allow blind vendors to operate in work areas.

This has been a matter of considerable discussion. I know I have visited many post offices and discussed it with postal officials. In your opinion do you think that reluctance is really justified?

Mr. AHART. Well, again the postal officials that we talked to did cite several concerns, one of which was it would detract from income potential for their employees' associations. Others had some concern about the safety for the blind vendor in operating in working areas. I do not know how valid that might be.

Senator RANDOLPH. We think it was not very valid as we checked this out. It was an excuse. I just put that on the record.

Mr. AHART. But I should note that in one postal region that we did visit, there were I think five vending operations being operated in work areas. Some of those were among the more economically successful ones that we saw in the postal establishment. That would certainly indicate that there is potential there for blind vendors to operate in work areas to the benefit of the blind program.

Senator RANDOLPH. Mr. Ahart, we know that there is an opposition within postal employee welfare groups and their testimony of course is on the record. I really wonder if you feel you can make comment, why do they have a reluctance in opposition to the blind vendor? Can you spell that out with reference to the vending machine income they have?

Mr. AHART. Well, again, Mr. Chairman, I think it gets back to competing interests. I think there are legitimate interests of employee associations. They do have valid and worthwhile activities. I think any time that the postal officials are in the position of refereeing between the blind vendor program and employee association programs, which is basically traditional, they are put in a very difficult position.

I think a more clear expression of intent on the part of Congress as to how these interests should be balanced is what could be helpful in this area.

Senator RANDOLPH. Again, do you feel it is a legislative matter?

Mr. AHART. I think, as far as the intent and relative priorities, it is a legislative matter.

Senator RANDOLPH. Now, can you give the subcommittee an estimate of the total potential numbers of blind who could become financially self-sustaining, let us say, in the post offices throughout the country if the provisions of this legislation became law?

Mr. AHART. I do not think we are in a position to be very precise about it, Mr. Chairman. We did send the questionnaires as our report states to some 291 postal facilities. In the return we got, we did find there were, I believe, 68 which had annual income for employee associations from above \$3,600, which would be one indicator, 31 of those had annual incomes above \$10,000, which would be another level. So I think that, certainly, despite the fact that some of these associations did deal with more than one installation, there is certainly some potential out there, I would say rather significant potential, for support of additional blind persons through vending operations.

Senator RANDOLPH. Mr. Ahart, do you have legislative recommendations that you think might help concerning the treatment of the funds that flow from the vending machine income on Federal property regardless of the type of installation? I think that is a proper question to ask you.

Mr. AHART. Yes; I think so, Mr. Chairman. Our office has been on record for many years. There is need for general legislation to clarify and provide the ground rules under which vending operations that are for employee associations, or what not, are operated. I think we certainly still feel that kind of legislation would be helpful. Beyond that, we have no specific recommendations for legislation at this time.

Senator RANDOLPH. Of course I feel that there has been an abuse within the Postal Service and other agencies, and I think their treatment of the blind vendor in a sense has been less than what I would have desired. I am not asking you to comment on that at this point. I want the record to show how I personally feel from very careful examination and analysis of these situations. I feel they have violated the spirit, although perhaps not the actual or the precise requirements of the law, and that is why I presume you say the law should be changed; is that correct?

Mr. AHART. That is correct, Mr. Chairman. I think that the agencies have been faced with trying to serve two masters, so to speak, and there is a need for expression of congressional intent to better balance, to set the balance between the competing interests.

Senator RANDOLPH. In your report I noted that you believe that the official attitudes in postal and military facilities were not those that you have found in the State licensing agencies. You have found a different situation there, at that level, than at the Federal level.

I think that is what you found. It seems that we are not solving this under voluntary procedure. It seems to me that S. 2581 is our effort to solve that. I think you have said that you believe that that is the only procedure, but I want to ask you once again, do you have any other recommendations to make to the members of the subcommittee with reference to specific needs in the legislation?

Mr. AHART. Not at this time, Mr. Chairman, no, not beyond the suggestions we have made.

Senator RANDOLPH. I want to turn now to another consideration, which we have increasingly had brought to our attention, and that is the competition with the cafeterias.

In some cases the Federal agency as you know will not permit a blind vending operation because it would diminish the income of the cafeteria. In others, the blind vendor is awarded a permit, but he is frankly forced, and I use that word advisedly, to operate an uneconomical stand. He is not allowed to have the items which will bring in the income he needs. It is called a dry stand.

Now does S. 2581 take care of that problem, as you see it, both with respect to the Federal buildings we have been discussing, and those preexisting cafeterias, and do you think this would keep such a situation from occurring in the future if this law was on the books?

Mr. AHART. Again I think we are faced with competing interests. I believe that S. 2581 would go some way toward balancing the interest between the need for cafeteria operations serving the employees and the need for the blind vendor program. I think the specific provision of S. 2581 which would have mandatory assignment of vending machine income exclusively for the blind vendor program would resolve some of the differences which have occurred in the past in this area.

Senator RANDOLPH. Well now, I think I am correct in saying that a cafeteria operation may contribute some of its earnings to an employee welfare association. Have you found that is true?

Mr. AHART. This is certainly true in some instances.

Senator RANDOLPH. Now if that is true, I wonder if there is any involvement in the price of the meals to the employees. Would you discuss that or would you care to?

Mr. AHART. Well, we have not made any specific study of that. It is my understanding, take Government Services Inc., for example, which runs many cafeterias here in Washington, D.C., area. For a number of years contributions from its surplus were made to employee associations, rationalized on the basis of expressing some appreciation. These are relatively small amounts.

It is my understanding that GSI has now discontinued that activity. Since they are no longer doing it, it should not reflect the price of their meals.

Senator RANDOLPH. I would not think there would be any justification of any subsidization of meals for Federal employees frankly when thousands of blind persons are attempting to seek gainful employment and when so-called subsidization would prevent that employment. Do you have any comment?

Mr. AHART. I am not sure I would disagree with you, Mr. Chairman.

Senator RANDOLPH. That is a good way for you to agree with me.

Mr. AHART. That is a hedge answer.

Senator RANDOLPH. It is my assumption that any Federal building which can support a cafeteria can support a blind vending facility. Would you agree with that, generally?

Mr. AHART. I would expect that as a generalization that that would be true.

Senator RANDOLPH. So GSA and the other Federal agencies, of course we want them to operate within the law, but we want them also to operate within this law, and we are trying even to amend it so they can, and that means a preference, does it not, Mr. Ahart, for the blind vendor?

Mr. AHART. The existing law and certainly the laws as it would be amended by S. 2581 clearly stated a preference for the blind vendor.

Senator RANDOLPH. Would you feel that there is any need to amend the Small Business Act so that minority business enterprises do not compete with blind vendors nor are installed on Federal property on which a blind vending facility is feasible, would you have a comment?

Mr. AHART. I think, Mr. Chairman, that there would be no need to amend the Small Business Act as such. I think that any conflicting interests that there may be between those two programs could be handled quite well by regulation and changes and cooperation by the agencies concerned.

Senator RANDOLPH. Perhaps you could tell us if you have an opinion on appropriate criteria that would determine whether a building will support one or more blind vendors—do you have any feeling about that?

Mr. AHART. Of course there is some existing criteria that the General Services Administration has and the State licensing agencies each has their own criteria. In general it would be the—well, all the factors which would go toward a determination as to whether there was potential there for sufficient income to support the blind vendor. These of course would be the number of employees that are in the building, the accessibility of the blind vending stand location to those employees, and the number of people that might walk by the vending stand in a day's time, and of course competition in the area, all of these things that influence the potential of that stand to provide a living income to the blind vendor.

Senator RANDOLPH. Mr. Ahart, you have with you Mr. Curtis and Mr. Solomon and Mr. Bedrick. I would be very glad to have any testimony from them if you feel that it is important or to supplement what you have stated. I have no questions, other than the ones we have asked.

How long did it take you, Mr. Ahart, to do this study and to make it public?

Mr. AHART. Well, we issued a report in September, as you mentioned, Mr. Chairman, of this year. Mr. Curtis, would you perhaps give the date the subcommittee requested us to make this study.

Mr. CURTIS. The resolution, as I recall, was received in August 1972. We met several times with the subcommittee staff prior to starting our field work in January 1973. It took approximately 9 months to complete the assignment, prepare our report and issue it to the subcommittee.

Senator RANDOLPH. Was it a thorough job?

Mr. CURTIS. We believe it was a thorough job, yes, sir.

Mr. AHART. I think a thorough job certainly, Mr. Chairman, within the scope of the review that we did. As I mentioned in my statement, we did have to deal with a sample, tried to get a good cross section, so we could not get comprehensive information on a nationwide basis, but certainly thorough within the scope of the study that was made.

Senator RANDOLPH. That is our feeling and I just wanted to emphasize this. Are there any other comments?

Mr. AHART. I do not believe so, Mr. Chairman, unless you have further questions.

Senator RANDOLPH. Mr. Ahart, we are appreciative of your testimony, we are appreciative of your response, you and your associates, to the mandate of the Congress in this matter. You are an arm of the Congress, are you not?

Mr. AHART. That is correct.

Senator RANDOLPH. And when there is a request such as this made, you look upon it as a commitment that you make to bring back to the committee or subcommittee concerned with specific problems, all the facts that you can determine, is that correct?

Mr. AHART. We see our role, Mr. Chairman, as providing objective information to the Congress which the Congress feels is necessary to its legislative function and any information that we include in our reports, we self-initiate, is designed for the same purpose, to provide useful information and objective information to the Congress that can help it carry out its work.

Senator RANDOLPH. Mr. Ahart, the work done by GAO in this particular instance is appreciated by those on the subcommittee. It will help us in the record which is going to be made in connection with the hearing and hoped for reporting of the bill from the subcommittee to the full committee and then the process to the Senate floor.

We are hoping that the House will join with us. As you know, about one-third of the membership of the Senate has placed its approval on this bill by cosponsorship, so there is this interest that I expressed and the desire to move forward.

Again we thank you for a job which we believe is an accurate appraisal of the situation from the standpoint of the study of the GAO.

Thank you very much. Senator Stafford, ranking minority member of the subcommittee, is here. He has demonstrated an intense interest in legislation for handicapped individuals. His help and cooperation have been most valuable.

[Senator Stafford assumed the chair]

Senator STAFFORD (presiding pro tempore). The next witness before the committee will be the Acting Commissioner of the Rehabilitation Service Administration, Corbett Reedy. I understand he is accompanied by members of his staff. I wonder, Mr. Reedy, if you would introduce those who are on your staff with you.

STATEMENT OF CORBETT REEDY, ACTING COMMISSIONER, REHABILITATION SERVICES ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY JOAN HUTCHINSON, DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (WELFARE); DOUGLAS MacFARLAND, DIRECTOR, OFFICE FOR THE BLIND AND VISUALLY HANDICAPPED; AND HENRY SEWARD, PROGRAM SPECIALIST

Mr. REEDY. I am happy to do so, Mr. Chairman. I have with me this morning Dr. Douglas MacFarland, Director of the Office of the Blind and Visually Handicapped of the Rehabilitation Service Administration, who is a veteran worker, very familiar with the subject under discussion. I have also Mr. Henry Seward, Program Specialist in the same office, who is directly identified with the operations of the Federal aspects of the Randolph-Sheppard Act, and Ms. Joan Hutchinson, Deputy Assistant Secretary in the Department of Health, Education, and Welfare.

Senator STAFFORD. Mr. Reedy, you are invited to proceed to read your statement or put it in the record and summarize it. Proceed in whatever fashion you prefer.

Mr. REEDY. Thank you very much. I will read the statement which we have supplied and then my colleagues and I will respond to questions which you may have.

Mr. Chairman and members of the committee, I welcome this opportunity to appear before the members of this committee to testify on S. 2581, a bill to amend the Randolph-Sheppard Act.

When Congress passed the initial Randolph-Sheppard Vending Stand Act in 1936, it opened a new era of opportunities for the blind of the Nation to become economically self-sufficient citizens. In my opinion, this has become an effective program in the broad spectrum of rehabilitation.

Since 1936, the program has grown to the extent that it now has a significant beneficial and economic impact on the lives of a great number of blind persons. Of the more than 500 new blind operators entering the program each year, a great number are former or potential recipients of public assistance.

The 1954 amendments to the original act and the 1965 and 1968 amendments to the Vocational Rehabilitation Act have considerably strengthened services which can be provided blind persons employed under the Randolph-Sheppard vending stand program. The recently enacted Rehabilitation Act of 1973, when fully implemented, will further support blind persons who will enter this program.

The Subcommittee on the Handicapped, as well as the full Committee on Labor and Public Welfare, has a remarkable record of service to the needs of disabled people of the Nation, especially the needs of the blind. We appreciate your continued interest and support.

The preliminary reports of fiscal year 1973 Randolph-Sheppard program operations are encouraging. Individuals employed under the program as blind operators earned \$24.9 million in income. The program provided employment opportunities for over 3,600 blind persons. The average net income realized by participants was \$7.452. This situation, indeed, constitutes a substantial measure of self-support for these individuals.

Certain aspects of the bill under consideration today would improve this program. It would, for example, enable the State licensing agencies to moderate their vending stand programs in accordance with the technological changes which have occurred in the vending business since this law was last amended in 1954. The passage of other provisions of this legislation will facilitate broader and improved services to the customers served through the program.

I should like to emphasize, Mr. Chairman, that the administration is fully committed to the improvement of this worthwhile program. As indicated by the following comments, we are in basic agreement with the bill and feel that it represents a great stride forward. We do have some recommendations for amendment to the bill which we will discuss.

The appropriate assignment of vending machine income has been a major issue for the past several years. As other Federal agencies will indicate to you, section 7 of S. 2581, assigning all income from vending machines on Federal property to blind licensees or designated State agencies, could seriously diminish the economic viability of cafeteria operations and erode the financial base of employee welfare activities.

We feel that the act would be strengthened by the provision in this

bill which eliminates the requirement that a licensed blind operator be at least 21 years of age. This would give States flexibility to establish their own requirements in this area.

The legislation under consideration specifies additional types of articles and services available in vending stands by including food and beverages prepared on and off the premises. Since the sale of food and beverages has met with success in present locations, we feel that this clarification of the law is desirable.

Certain sections of the bill merely update the act—for example, deletion of the 1-year residence requirement and archaic language. We concur in these changes. The bill would also substitute the term “vending facility” for “vending stand,” and would add a definition of the new term. Insofar as this definition could be interpreted to include a cafeteria, we have some reservations with it.

In view of the GAO recommendations, we believe that the new provision requiring the written justification is certainly in accordance with the intent of the act. Specifically, that provision requires written justification in order to substantiate the contention that the installation of a Randolph-Sheppard vending facility on any given Federal property would adversely affect the interest of the U.S. Government. Responsibility for this finding should, however, rest with the head of the appropriate agency in consultation with the Secretary of HEW and should not rest with the Secretary alone.

Publication in the Federal Register of such justification, along with supporting documentation, will provide all concerned with better understanding and this, in turn, will develop more cooperative relationships among Federal agencies, State licensing agencies, blind operators, and the interested public sector.

New subsection 2(d) in section 4 of S. 2581 provides for inclusion of sites for vending facility locations in the design, construction, or substantial alteration of all Federal buildings including those leased by Federal agencies.

This provision will help to assure growth of employment opportunities for blind persons while providing valuable services to the public. The addition of this subsection will provide for harmonious blending of the vending facility with the architectural design of the building and for more efficient service to its clientele.

The new subsection also requires the Secretary of HEW or his designee to make a determination in consultation with the agencies controlling Federal property and with the State licensing agency to insure inclusion of suitable sites for establishment of vending facilities on Federal property.

The bill recognizes two exceptions. It provides that, where there would be insufficient clientele for a vending facility or where space is leased by a Federal agency in a privately owned building, and there is already in operation, prior to the making of such a lease, a restaurant or other food facility, in the part of the building not included in the lease, and where, in addition, the operation of a vending facility would be in proximate and substantial competition with such food facility, the Secretary may make an exception to the requirement for establishing the blind vending facility.

However, we believe that in lieu of determinations by the Secretary of HEW in this subsection, it would be more appropriate to require

determination by the head of the agency controlling the property after consultation with the Secretary of HEW.

The bill outlines the procedures which will be utilized in administering the Act, designating responsibility for administration by the Secretary through the Commissioner of RSA. The language is similar to that which is set forth in the Rehabilitation Act of 1973 (Public Law 93-112).

For many years the Randolph-Sheppard program has been an integral part of the State vocational rehabilitation program. The State vocational rehabilitation agencies are designated to carry out the provisions of the act, and the major portion of the funding for establishing and equipping facilities as well as management of the program has come from VR funds.

We are convinced that the arrangement has contributed to the success of the program and we welcome the opportunity to accept this mandate on behalf of the Rehabilitation Services Administration. Basic requirements as spelled out in this section can be successfully conducted through our current State-Federal partnership arrangement.

The section on binding arbitration between the State licensing agencies and the operators is an extension of the fair hearings procedure as set forth in section 3(6) of the present act. This procedure provides for a formal hearing, with final authority vested in the head of the State agency. If the matter cannot be resolved equitably through this method, the operator has recourse through the courts for its resolution. Since the resolution of all grievances under this section derive from the administration or operation of the States' program and current provisions of this section provide adequate safeguards to protect the interests of the blind operator, we see no necessity for binding arbitration as set forth in section 5(a) of the bill.

The bill also has a provision for binding arbitration between the State licensing agencies and departments and agencies in control of Federal properties.

If S. 2581 is enacted into law, it would necessitate substantial changes in rules and regulations promulgated by agencies and departments in control of Federal property with respect to the Randolph-Sheppard program.

The special authority vested in the Secretary by Executive Order 11609 would give him an opportunity to assure the inclusion of an equitable fair hearing procedure in all such regulations. This method should be utilized before consideration of more stringent measures. We therefore oppose binding arbitration as set forth in section 5(b) of the bill.

Section 9 of the bill would mandate the assignment of personnel within the Department of HEW. This is a highly undesirable infringement of the managerial prerogative of the Secretary. Furthermore, we oppose the establishment of specific supergrade positions in statute.

We also believe it equitable to grant the authority to provide operators of vending stands with retirement, leave, and other fringe benefits. We know from past experiences that many States are attempting to effect a sound leave and retirement system but are unable to finance a plan which would be beneficial to all operators.

Gentlemen, this program constitutes a graphic example of government activity that enables its citizens to help themselves. We hope that you will give S. 2581, as amended by our suggestions, favorable consideration. We would be glad to work with the committee in suggesting technical and other improvements in the bill.

Senator STAFFORD. Thank you very much, Mr. Reedy, for your very helpful statement. Speaking personally, I am particularly happy to see your offer to work with the committee in determining technical and other improvements in the bill. It seems to me the more that the people downtown work with us on the Hill in developing something that can go through the Congress, be properly administered, the better off we all are. Confrontations do not help us much. It is when we are working together and get something done that the country benefits from our joint efforts.

I appreciate what you said in the statement and particularly in the last sentence of it. I have some questions which really are those of the chairman, but I am going to offer his observations and his questions to you for response.

As you know, the Federal sector of the blind vending stand program has been slipping over the past several years. In 1971 there were 881 stands, in 1972 there were 878, and at the end of fiscal year 1973 there were 874. Dr. Newman testified in 1971 that the number of vendors could be doubled in 5 years if constraints on the program were lifted. Do you think in general that S. 2581 abolishes these constraints?

Mr. REEDY. I think the original premise is a correct one, that there is such potential growth, and also that this bill does go far toward removing the constraints; but more positively, it gives the encouragement to move forward.

OVERSIGHT OF ACT

Senator STAFFORD. One of the major findings of the GAO report was that the Office for the Blind and Visually Handicapped does not have the manpower to oversee adequately the existing Randolph-Sheppard program, much less direct its vigorous expansion. In S. 2581 we have provided a number of directives for RSA and the office, as well as authority for additional personnel. It will probably be desirable to add a provision requiring periodic evaluation of the program by HEW and annual reports to Congress. Do you think these provisions will insure a strong and expanding Randolph-Sheppard program?

Mr. REEDY. Mr. Chairman, there is no doubt that the role prescribed in these amendments to the Rehabilitation Services Administration will overtax our present small Office for the Blind. In fact, we have already recognized the inadequacy of this staffing, and since my tenure as Acting Commissioner, we have taken some positive steps to augment that staff by transfers within the agency. I would foresee that if this bill substantially as it is presented here becomes law, that the Federal leadership, operational role, and monitorship of the entire program will impose major new responsibilities on the Office and that this indicates a staffing problem.

STATE COORDINATION

Senator STAFFORD. How good is the coordination between State vocational rehabilitation programs and State licensing agency training programs for blind vendors?

Mr. REEDY. Mr. Chairman, I would like to refer that question to Dr. MacFarland who has direct responsibility in this area.

Senator STAFFORD. Very good.

Dr. MACFARLAND. Senator, as indicated by testimony from GAO, the training efforts do vary from State to State. Of course every vocational rehabilitation agency in the country is a designated State licensing agency. From the standpoint of coordination, this is obviously good. But I do think that there is great room for improvement in many States, in preparing blind persons to take their places as licensed vending stand operators because we have two responsibilities. First, we have a responsibility to the blind person to see that he is given appropriate training, to do the best job and to earn the greatest livelihood possible. We have an equal responsibility to see that the customers are given the service that they deserve.

ADEQUACY OF SECTION 8 ON TRAINING

Senator STAFFORD. Thank you. Are the provisions of new section 8 in S. 2581 adequate to insure both primary training and upward mobility training within the Randolph-Sheppard program?

Dr. MACFARLAND. I think the provisions in section 8, Senator, will augment the training program for training operators in light of a rather substantial expansion. But the real undergirding of the training program will come from our State vocational rehabilitation agencies and from our basic grants, our basic allotment. This is a responsibility of the State VR agency. It has been carried out down through the years.

If the program is expanded, I would expect and hope that we could expand our training activities in this area through the further expenditure of vocational rehabilitation funds. Would you agree with that, Mr. Reedy?

Mr. REEDY. Yes. I wish to supplement these remarks. Senator Stafford will know as well as anyone the new Rehabilitation Act of 1973 places very great emphasis upon improving and expanding services to the severely disabled. We feel this would include the blind. Therefore, we are moving toward those changes in Federal regulation and Federal guidelines which will, in turn, be responded to by States that will improve the opportunity for training, both for entry into the vending stand program and for upgrading those who exhibit the potential for moving forward in that program.

SET-ASIDE FUNDS AND VENDOR INCOME

Senator STAFFORD. Thank you. The following questions relate to set-aside funds and vendor income.

First, is a requirement for national uniform standards governing set-aside funds feasible?

Dr. MACFARLAND. Well, yes. Senator we do see the necessity, insofar as possible, for standardizing the use of set-aside funds. But someone in testimony earlier said that this would necessitate a study. Indeed it will because there are many complex problems that raise. First of all, in the type of vending stands that we are talking about, vending facilities, there are dry stands, there are snack bars, and so on, and there are places where over-the counter vending is augmented by vending machine income. So it is not easy, and it will take some study to arrive at some equitable solution.

We also have the inequity that cannot be resolved very easily in the fact that we have a number of facilities located in Washington, D.C., Virginia, and Maryland and in other areas where we have our 10 regional offices. There are other States where the Federal properties on which vending facilities can be located are practically nonexistent. I believe that it is not an insoluble problem, but it is one that will take some study and we certainly could not begin to submit formulas today.

It needs attention, however. We do note the variations around the country.

Senator STAFFORD. This question and the next several will relate to set-aside and vendor income. The next one is, do you have an opinion as to how much each blind vendor should be required to contribute for set-aside purposes?

Dr. MACFARLAND. Very quickly, Senator, and I think this follows what I said before, it would have to be on a percentage basis. We certainly would not want to set a fixed lower limit because of the variations in earnings. Am I answering your question, sir?

Senator STAFFORD. Yes, I think you are. You said a percentage portion. Have you any thoughts at this point on what the percentage ought to be or would you like to reserve on that?

Dr. MACFARLAND. The present law, sir, gives the Secretary the right to determine what is reasonable. That is the language under which we operate. And in determining what is reasonable, we have to review the set-aside by comparing expenditures with the purposes for which they are used. Some States have set aside for one purpose only, some set aside for four purposes, in the case of S. 2581 there would be five purposes. Although we have not set a fixed lower limit, we have encouraged States not to take set-aside below a certain point. In other words, if a person is earning—I am giving you an estimated figure now, Senator, let's say that if a person's earning capacity in the stand is below \$300 a month, we would consider that any heavy set-aside levy here would drive the person below the poverty level.

Senator STAFFORD. Thank you. Do you think contribution percentages and details governing set-aside funds should be specifically legislated or left to regulations?

Dr. MACFARLAND. It would be very difficult to legislate other than to stipulate what is already in the act and what is proposed in S. 2581, that is to set forth the purposes for which money can be set aside. First, we have State laws which vary. There are States that specifically preclude an agency from having set-aside in certain areas. And with variations, I think it would be quite difficult to suggest stringent legislation on this. It would have to be done through regulations.

Senator STAFFORD. I understand some State laws might prohibit the establishment of a fair minimum return for blind vendors, but should all States nevertheless be required to guarantee a specific fair minimum return for blind vendors and how could this be accomplished?

Dr. MACFARLAND. The law is flexible now, and as I interpret S. 2581, it would still be flexible. States are not required to set aside. They are given the option.

Senator STAFFORD. I will have one more question and then I have to answer a rollcall vote which has started. This acting chairman will have to leave.

What do you think of California's so-called Spalding theory under which blind vending facilities would be established in portable prefabricated buildings at highway safety rest stops and truck weigh-in stations? Is it a good idea and if so could it be implemented on a nationwide basis?

Dr. MACFARLAND. I am not really familiar with the Spalding principle or—

Senator STAFFORD. That frankly makes two of us.

Dr. MACFARLAND. I find it difficult to envision taking vending stands down and moving them around, but I suppose if you had construction, for example, where you have a number of people working in an area for a year and then the building is completed, no one is working there, no construction workers, it might be very expedient to have a portable stand. I do not see this as a great answer for any State.

Senator STAFFORD. Thank you very much. We will continue the hearings, but unfortunately this Senator has got to go and answer a rollcall.

Mr. HUMPHREYS. To continue, Mr. Reedy or Dr. MacFarland, if S. 2581 were enacted, what kinds of regulations do you envision should be promulgated in order to meet the intent of the legislation, particularly with respect to other Federal agencies and State licensing agencies?

Dr. MACFARLAND. Mr. Humphreys, I am not sure that we are ready to give all of the answers here. This is something we would want to be considering in approving regulations. But certainly something came up this morning that to me is paramount, and that is to try to develop a final resolution to the problem of fair hearings. There is some inequity at the moment, at least what would appear to be inequity. When a defendant and a plaintiff come together, regardless of how fair the defendant may be, if the defendant is the judge, you may have some difficulties in coming to a resolution of the problem that is agreeable to all parties. So, I think we will have to give some very serious attention to fair hearing procedures, if this comes to the Secretary. It is his responsibility as I see it in 11609, and he must resolve it.

Mr. REEDY. I think the main thrust of these amendments is to increase the strength of the preference provisions given to the blind in Federal locations. I feel that our regulations have to be carefully reviewed in terms of whether or not they do carry out this intent.

Mr. HUMPHREYS. Of course, one of the major impacts of the legislation would be the establishment of a more centralized uniform direction for the program operating out of the Office for the Blind and Visually Handicapped in RSA. In line with that, you opposed in your testimony, the restrictions on secretarial flexibility contained in S. 2581. The GAO report shows a severe limit on manpower expended by HEW under the Randolph-Sheppard program. How can we obtain a commitment for additional personnel and increased activity on the part of the blind vending program to meet the requirements under S. 2581?

Mr. REEDY. I believe our position is that we do not oppose adequate manpower provisions, rather that we oppose the requirement in the legislation of a specific number of persons and in specific grades.

Mr. HUMPHREYS. Can we obtain assurances that adequate personnel will, in fact, be assigned to the program so its mandate will be carried out?

Mr. REEDY. I feel that as the Secretary and the Commissioner accept the new responsibilities here, there is an implicit obligation to

fund the program, to staff the program sufficiently, so that its objectives would be achieved.

Mr. HUMPHREYS. On page 3 of your statement you said that assignment of all vending machine income to the program could seriously diminish the economic viability of cafeteria operations as well as the employee welfare and recreation activities. What kind of assignment would you recommend legislatively?

Dr. MACFARLAND. Mr. Humphreys, I am not sure again that we would be prepared to give an answer to a complex question like this. I think it does need study. However, we certainly feel that there needs to be some accommodation. Let me put it this way—last year when we testified, we did discuss one possibility. What is in S. 2581 is another approach. Last year we were recommending the implementation of a set-aside, division of vending machine income, that was set forth by GSA. This was promulgated a number of years ago in consultation with HEW, which, in effect, divided the income. I think that what we are saying here in testimony, Mr. Humphreys, is that there are two sides to the coin. One is the provision of adequate employment for blind persons. The second is the satisfaction of the customer. I guess the best way that I can explain it is that we must come up with a settlement that does not violate either side.

Mr. HUMPHREYS. On page 4(a) of your prepared statement you express support for determination of vending sites by Federal agencies in control of buildings, rather than by the Secretary of HEW. Why is that?

Mr. REEDY. Our position is taken to respect the administrative authority of the respective program heads in which the vending activity might be stationed and not to suggest that the Secretary of HEW would intrude on the prerogatives of the department head or installation head in which this is located.

Mr. HUMPHREYS. But of course if we assign the responsibility by law to the Secretary of HEW, the agency head no longer has that prerogative.

Mr. REEDY. That is correct. If that is the way it comes out, I am sure the Secretary of HEW will do his best to enforce the law.

Mr. HUMPHREYS. Thank you. I have no further questions. Senator Randolph has no further questions. Michael Francis, legislative aide to Senator Stafford, has some questions for you.

Mr. FRANCIS. Dr. MacFarland, you talk about the study for the set-aside. One question, how long will this study take to complete?

Dr. MACFARLAND. I do not know how to answer that, Mr. Francis. Certainly the elements that I see that need studying should not take more than a few months.

Mr. FRANCIS. I think, Dr. MacFarland, the committee would be helped very much if such a study of the provisions of the set-aside were available before the bill is marked up or passed.

Dr. MACFARLAND. I think it would be very helpful if we had a number of solutions that could be put forward to the committee and have the committee then decide which is the most equitable.

Mr. FRANCIS. Mr. Reedy, you mentioned the severely handicapped provisions of the Rehabilitation Act in response to one of Senator Stafford's questions about mobility and training for blind individuals. I assume you were referring, when you made the statement, to the severely handicapped provision of the Rehabilitation Act of 1973,

which states that priority should be given for services to the most severely disabled within any handicapped group?

Mr. REEDY. Yes.

Mr. HUMPHREYS. In the absence of the chairman, I want to thank you on his behalf for appearing. We certainly will take your testimony very much into consideration when we further consider the bill.

Thank you all.

Our next witness will be Mr. Charles Hoehne, who is general counsel of the National Council of State Agencies for the Blind.

Mr. Hoehne, in addition to his responsibility as general counsel of the National Council of State Agencies for the Blind, is also assistant director of the Texas Commission for the Blind. On behalf of the chairman and members of the committee, I welcome you and thank you for taking the time and distance to come here and present testimony on behalf of your council.

STATEMENT OF CHARLES HOEHNE, EXECUTIVE DIRECTOR, NATIONAL COUNCIL OF STATE AGENCIES FOR THE BLIND

Mr. HOEHNE. If I may, I have prepared a statement that I would like to submit for the record. In the interest of conserving your time and that of the subcommittee, I would like to just briefly summarize what the rather lengthy statement says.

I do very much appreciate the opportunity to appear in behalf of the National Council of State Agencies for the Blind. The members of the national council's executive board have very much desired to be here, but we are at a time of austerity, in the interest of conserving Federal funds, they decided to have only one spokesman for the State licensing agencies appear.

I was instructed, though, by the executive board to express particular appreciation to this subcommittee on behalf of the national council for the fine work on the new rehabilitation legislation, including most particularly the earlier legislation which had been enacted by the Congress and then subjected to a number of vetoes.

The legislation originally enacted contained provisions which our organization had been advocating for 6 or 7 years. We deeply appreciate this committee's understanding and concurrence to the point of view we have been expressing on certain of those issues.

While the new rehabilitation legislation, the Rehabilitation Act of 1973, of course, does not contain all the things that we had hoped for, we feel that nevertheless it is good legislation and it is directly pertinent to S. 2581, which we are here to talk about today.

For the purposes of identification, the National Council of State Agencies for the Blind is a nonprofit organization that represents the State licensing agencies, the State programs for the blind throughout the United States. Unlike some of the other witnesses who have been before this subcommittee, the State licensing agencies and their representatives have no financial stake whatever in this legislation, one way or the other. Our only interest is to provide as fine a program as we can for the blind people who turn to us for rehabilitation, related to types of assistance, and we thoroughly understand that in order to provide a truly meaningful program to blind Americans over a period of time, it is imperative that in support of the Randolph-Sheppard program is concerned, that we provide the best possible

services we can to patrons of the buildings in which these various locations are located.

We very strongly support S. 2581. The necessity of this legislation is apparent and obvious. We think it is a very realistic approach to resolving what has been a longstanding and increasingly frustrating problem. We think that S. 2581 deals with the basic problem that is plaguing the program, a problem which traces back to vending machine income, and vending machine competition. S. 2581 deals with that basic problem in the only way that the problem can effectively finally be resolved.

We strongly support those provisions of the act which would preclude vending machine income going to any organization that has no specific legal authority to receive the same. We have in some States with increasing frequency, last year, since the last hearing, found some of our vending facilities subjected to all types of harassment in terms of unreasonable demands being made for equipment, unusual demands for working hours, service, where it is not economically feasible to provide such services, where no private business organization would undertake this.

We find somewhat unusual demands made occasionally with relation to prices. None of these things in our judgment made so much with the view toward the merits of the request from Federal agency, so much as the purpose of harassment by discouraging State licensing agencies and the blind vending facility operators.

I feel that S. 2581 has great significant beneficial implications for the entire Randolph-Sheppard program. We note the historical importance of this program, in the entire field of work for the blind. The Randolph-Sheppard program has been a showcase program for the entire rehabilitation movement. As such, it has had a very profound and immediate and beneficial impact and influence on the lives of the thousands of blind individuals who have been directly involved over the years as operators of these facilities. But equally important in our judgment is the indirect benefit which has accrued to all handicapped Americans, to all the blind people, because this program has afforded rehabilitation agencies an opportunity to demonstrate that some of the myths that exist on the helplessness of handicapped people is ill founded. The program can show what they can accomplish if given the opportunity. In so doing the program has contributed substantially to the realization of those production goals which are not achieving fruition throughout the country in terms of several hundred thousand rehabilitation clients annually being rehabilitated through the State-Federal programs.

We are concerned that the present direction, and the present problems that our members are experiencing all over the country threaten to have just the opposite effect of what occurred in 1936. We think some adverse examples are being provided in various States. Some unfortunate precedents can be set and that this legislation is very clearly indicated to preclude those precedents and examples.

The opposition of the Federal groups I am sure will be expressed before this subcommittee at length and these hearings. But I am confident that when you boil down all the opposition, you are going to find that it comes down simply to this: The Federal employees welfare groups through their various spokesmen essentially and basi-

cally are asking for something that they are presently receiving without any legal authority whatsoever, and they are asking for something that people in other areas of employment do not presently receive. This is the issue that concerns us very greatly. Nowhere in State government locations, in city locations, county locations, private business locations, are we confronted with quite the type of demands that Federal groups make for sheer vending machine profits. Employees in all other segments of our society outside the Federal service seem to be quite able to fund recreational activities, welfare activities, all this without impinging upon the job opportunities of blind citizens, so we are concerned that because of the success and scope of what is occurring in the Federal area with respect to funding of such activities, there will be occasion for this to eventually be emulated in the State, city, county, and private sectors of our economy.

We feel that S. 2581 would make possible a tremendous amount of long-range growth, but perhaps more importantly than just the growth, basic improvement of the program in terms of the implications of people who participate in the program and in terms of the types of services we will be able to afford to people who patronize these facilities.

Certainly it is not unreasonable to anticipate that if S. 2581 is enacted in substantially the same form as now written, this program will double by 1980. But it will also provide us with the opportunity and the specific authority and encouragement we need to make that program more meaningful and more beneficial to the blind individuals who now participate in it.

I would like to comment specifically upon that provision of S. 2581 which would authorize the establishment of a benefit program for blind participants. This particular provision is seen as being of considerable importance, again not only to the people who participate in the program as operators, but in terms of all of the blind people who turn to State agencies for rehabilitation assistance. It is a matter of common knowledge that the blind people in America have and presently are subjected to unreasonable discrimination in trying to attempt to obtain adequate insurance coverage from private sources on their own initiative. The rates are frequently prohibitory if they can even buy insurance at all. We do feel that if we can establish group programs under the auspices of the Randolph-Sheppard program, we will have the basis for developing good meaningful statistical information with which we can then go to the insurance industry and review the archaic, outmoded, invalid tables that are now being used, and in this manner serve a lot of people through this program indirectly, but in a very meaningful way.

We do have some questions about the procedures which are specified for the resolution of disputes. Certainly no member agency of the national council would in any manner oppose the principle of providing every individual an opportunity for having a grievance fairly and promptly and expeditiously resolved with a minimum of expense to him and the agency, but we wonder about arbitration procedures which if we read them correctly that appear to require the Secretary of Health, Education, and Welfare to get involved in a dispute between licensing agency and operator. The principle of arbitration is one we strongly support.

The mechanics and procedures for implementing that principle, however, are of some concern, and it has been suggested that perhaps an arbitration route composed solely of State level for disputes that arise solely at the State level might be more effective, less costly and a little less cumbersome. But again the language of S. 2581 may not be read by us correctly, and we would suggest some clarification of that would be helpful.

We also very strongly support the concept of training, of upgrading people who are already in the program, the training problem has been a constant one over the years. It is to a certain extent a function of a changing philosophy for this program. That philosophy is still not constant. It exists among all the member agencies of the national council, the program is regarded in different manners. In some States it is a very tightly administered program where the operator tends to partake of the nature of employees, and others it is pretty much a sole proprietorship type of program being run for managerial service.

The problem of running a large business operation, and this is a large business operation nationwide, are I think resulting in a constant erosion of the differences which obtain throughout the United States. They are providing new impetus and interest toward establishment of relative and pertinent and meaningful training programs. We very strongly support those provisions which not only require appropriate training for people who are entering the program, but also would provide appropriate procedures and mechanisms and decisions for upgrading continuing education support of training for individuals who are already in as licensees.

We particularly commend to this subcommittee the present language of the bill which requires the addition of staff in the Office for the Blind and Visually Handicapped within HEW. Since 1967 our organization has been going to HEW to protest the fact that there are not sufficient staff in that office and to request that additional people be added. For 6 years we have been making such requests. We are not confident at all that there will be additional staff in that office unless there is fairly strong and specific direction from the legislative branch in that regard.

I do appreciate the opportunity to be heard and to submit the prepared statement. Mr. Humphreys, and I will surely be happy to respond to any questions that you may have.

Mr. HUMPHREYS. Thank you, Mr. Hoehne. On behalf of Senator Randolph, I do have a few questions to ask you.

First, under the Randolph-Sheppard Act as it currently exists, State licensing agencies have authority to prescribe regulations for the operation of the program, as long as they are consistent with the law. The policies of the States in managing the program are quite varied, however. What is your reaction to the provisions of S. 2581 which require that uniform standards be promulgated by HEW?

Mr. HOEHNE. As I said earlier, because of the scope of the program, the fact that it has become a large business operation nationwide, and within each of the States by and large, I think that there is outside of his provision of S. 2581 already considerable impetus and interest toward that direction. However, we would strongly support that provision, subject to the understanding that here would be made available with the Office for the Blind and Visually Handicapped adequate staff

and adequate resources to provide the leadership at a central office level, a national level, that must exist as a precondition to development of regulations that will be enforceable and admissible.

Mr. HUMPHREYS. The GAO report pointed out that State agencies have not been aggressive in attempting to secure the placement of blind vending facilities at Federal locations, particularly those controlled by the Postal Service and the Defense Department. What are the reasons for the lack of success in those areas in your opinion?

Mr. HOEHNE. I would question the conclusion that State licensing agencies have not been aggressive. I think they have attempted to be aggressive. They have not been particularly effective, in fact woefully ineffective in most instances, and the reason is very simple. The procedure, as it now exists, is one in which a defendant tries his own case. We go to people who do not have an open mind, who are not administering the law in good faith, whose objective is to circumvent the legislative policy that was originally declared in 1936.

It is a very frustrating and very futile process to attempt to obtain locations in postal installations, Department of Defense installations or anywhere else under those circumstances.

S. 2581, of course, remove any occasion for this circumvention of this legislative policy of the act. I think from that standpoint, it is certainly reasonable to anticipate that you would see the program at least doubling by 1980.

Mr. HUMPHREYS. Do you conclude that S. 2581 in that respect is superior to previous legislation that the committee has proposed?

Mr. HOEHNE. Unquestionably so. If I may, I would like to say that S. 2581 in many ways traces a little Randolph-Sheppard Act that we have in my own State of Texas. The experience we have had subsequent to the enactment of that statute in 1965 fully confirms what I have projected earlier in the testimony in my prepared statement about the growth of this program.

Mr. HUMPHREYS. Could you provide the committee with a copy of that law for the record?

Mr. HOEHNE. I shall be happy to do so.

[Information supplied for the record follows:]

Vernon's Texas Civil Statutes,

1

Art. 678d—1. Vending facilities operated by blind persons

Definitions

Section 1. In this Act, unless the context requires a different definition,

(1) "blind person" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle of no greater than 20 degrees;

(2) "vending facility" includes a cafe, cafeteria, restaurant, snack bar, concession stand, or other facility at which food, drinks, drugs, novelties, souvenirs, tobacco products, notions or related items are regularly sold, but does not include those facilities consisting solely of vending machines not in competition, direct or indirectly, with a vending facility operated by or suitable for being operated by a vocationally handicapped person, except where this Act specifically mentioned vending machines;

(3) "state property" means buildings and land owned, leased or otherwise controlled by the state;

(4) "agency" means the state department or agency in charge of state property;

(5) "Commission" means the State Commission for the Blind;

(6) "Division" means the Division of Vocational Rehabilitation, Texas Education Agency;

(7) "handicap" includes any physical or mental condition determined by the Commission or the Division to constitute a substantial vocational disadvantage.

License or permit required

Sec. 2. No person may operate a vending facility, including any vending machine or other coin-operated device, unless he is licensed to do so by the Commission or authorized to do so by an agency granted a permit to arrange for vending facilities.

Licensing procedure—first priority to be given to blind

Sec. 3. Upon written notification by an agency in control of state property that a vending facility is desired on the property, or, upon its own initiative, the Commission

(1) shall survey the property (or blueprints, plans, and other similar, available information) to determine if the installation of one of its vending facilities is feasible and consonant with its vocational rehabilitation objectives; and

(2) license a blind person to operate the vending facility to be installed by the Commission; or else

(3) notify, pursuant to Section 7(a) of this Act, the Division and agency in writing that it has rejected the property as a location for a Commission-sponsored vending facility, and issue the Division of the agency a general permit (the form of which the Commission may prescribe) authorizing the installation of whatever vending facilities the Division of the agency wants to install.

Adoption of rules

Sec. 4. The Commission shall adopt (1) substantive rules relating to the conditions for revoking a license, and (2) procedural rules relating to the manner of revocation.

Revocation of permits and licenses

Sec. 5. (a) Every license and general permit granted by the Commission for operating vending facilities on state property expires three years after the date of issuance, at which time the merits of renewing the license, or general permit shall be reviewed by the Commission, and a new or different license or general permit issued, as the Commission finds proper.

(b) Should there be a material change in conditions before the expiration of a general permit, however, the agency and the Commission may revoke the general permit by mutual consent.

(c) The wilful failure of a blind person to operate a vending facility in compliance with rules of the Commission or the provisions of this Act constitutes grounds for the automatic revocation of the license granted by the Commission.

Persons who may be licensed

Sec. 6. (a) The Commission may issue licenses to operate its vending facilities on state property to blind persons who are citizens of the state and who are capable of efficiently operating the vending facilities in a manner resulting in a reasonable satisfaction for all concerned parties.

(b) No blind person may be licensed to operate a vending facility until the Commission, through devices such as prevocational testing and training, has determined that the blind person has the requisite physical, psychological, and personal traits and abilities for operating a vending facility in a manner which is satisfactory to the Commission and the agency concerned.

(c) The Commission shall place the name of a blind person who has satisfactorily completed prevocational testing and training on a roster of individuals, certified as suitable for licensing as operators of vending facilities.

(d) When a Commission-sponsored vending facility becomes available on state property, the Commission shall, if two or more equally qualified and certified blind persons apply for a license to operate the facility, issue the license to the applicant on its roster of individuals certified as suitable for licensing whom it judges to be most in need of employment.

(e) When a vending facility is installed or operated by the Division pursuant to Section 7(a), the installation and operation of the facility shall, so far as possible, conform to the provisions of this Act applicable to vending facilities installed by the Commission.

(f) The granting of a license, general permit, authorization, or contract under the provisions of this Act does not vest the person, agency, firm, or corporation to whom granted with any property or other rights, in law or in equity, which might constitute the basis of a cause of action against the state, any of its agencies or departments, or any of its officials or employees.

Employment of other handicapped persons in vending facilities

Sec. 7. (a) If the nature of a location for a vending facility on state property is such that the Commission determines a blind person could not properly operate the facility, the Commission shall so advise the Division of Vocational Rehabilitation, Texas Education Agency. The Division shall survey the location and determine if it is suitable as a location for a vending facility to be operated by a person with a vocational handicap other than blindness. If the Division determines that the location is suitable for this purpose, it shall notify the Commission of its determination within a reasonable time, and the Commission shall grant the Division a general permit for the installation and operation of a vending facility.

(b) If, in addition to the blind person licensed by the Commission, an assistant is necessary to operate a vending facility, the Commission shall survey the vending facility to determine the nature of the duties for which an assistant is necessary. If the Commission determines that another visually handicapped person can adequately discharge the duties, and if a visually handicapped person having the requisite abilities and qualifications is available, the blind operator licensed to operate the vending facility may not employ an assistant other than another visually handicapped person. If another qualified visually handicapped person is not available, or if the duties for which an assistant is requested could not adequately be discharged by a visually handicapped person but could be adequately discharged by a person with a vocational handicap other than one of a visual nature the Commission shall request the Division to recommend a vocationally handicapped person who is qualified and available for employment in the vending facility, and if a qualified person is recommended by the Division, the blind person licensed to operate the facility may not employ any other person. If there is no qualified visually handicapped or otherwise vocationally handicapped person to fill a requested position for which visually handicapped or otherwise vocationally handicapped person would be suited, the Commission may authorize the licensee to hire a non-handicapped person to fill the position on a temporary basis, pending the availability of a visually handicapped or otherwise vocationally handicapped person who is qualified to fill the position.

(c) Any assistant employed by a blind person licensed by the Commission under the provisions of this Act must be approved by the Commission, and the deliberate refusal of a blind operator to comply with this section constitutes grounds for automatic revocation of his license.

Competing vending facilities

Sec. 8. (a) No additional permit or license is required for installing additional vending facilities, such as vending machines, on state property having a Commission-sponsored vending facility, but additional vending facilities may not be installed on the property unless an agreement is reached between the agency and the Commission concerning the installation and operation of the competing vending facilities. If the competing vending facilities consist of vending machines or other coin-operated devices the installation and operation shall be by the authorization of the Commission, which authorization shall be made with a view toward providing the greatest economic benefits to blind clients of the Commission consonant with the supplying of additional services necessary at the building in which the Commission-sponsored vending facility is located.

(b) It is the duty of the heads of all state agencies concerned to negotiate and to cooperate in good faith to accomplish the purposes of this Act. This provision applies equally to vending facilities, including vending machines or other coin-operated devices, in competition with a Commission-sponsored vending facility on or before the effective date of this Act, vending facilities, including vending machines and other coin-operated devices, which would, if installed, be in competition with an existing Commission-sponsored vending facility, and vending facilities, including vending machines or other coin-operated devices, the installation and operation of which in a state building precludes the installation and operation of a vending facility by the Commission or the Division.

(c) When vending machines are located in the same building as is a vending facility operated by a blind or otherwise vocationally handicapped individual, all commissions from the vending machine are to be received by the blind or otherwise vocationally handicapped individual. When vending machines and more than one vending facility operated by a blind or otherwise vocationally handicapped individual are located in the same building, the assignment of commissions from the vending machines shall be determined by the Commission, with a view toward achieving equity and equality in the incomes of the blind or otherwise vocationally handicapped individuals. If the Commission and the Division have, pursuant to Section 3 and Section 7(a) of this Act, rejected a location for a vending facility operated by a blind or otherwise vocationally handicapped individual, the assignment of commissions from vending machines is to be determined by the agency to whom a general permit is issued.

Vending facility locations

Sec. 9. (a) The Commission is responsible for designating vending facility locations on state property after the agency in charge has requested such a facility. The designation is effective after the agency in charge of the state property concurs in it.

(b) The agency responsible for state property shall alter the property to make it suitable for properly operating the vending facilities to be established on it. To this end, the agency in charge of the construction of new state property shall consult with the Commission during the planning stage in the construction of state property.

Vending facility equipment and stock

Sec. 10. (a) The Commission may supply a blind vending facility operator with equipment and initial stock necessary for him to begin business.

(b) The Commission shall collect and set aside from the proceeds of the operation of its vending facilities enough money

- (1) to insure a sufficient amount of initial stock for the vending facilities it operates and for their proper maintenance;
- (2) to defray the costs of supervision and other expenses incidental to the operation of the vending facilities.

(c) Except for purchasing and installing original equipment, the operation of Commission-sponsored vending facilities on state property is to be as self-supporting and as self-sustaining as possible, and, to this end, the Commission shall periodically review and, when necessary, revise its schedules for collecting and setting aside money from the proceeds of its vending facilities.

Responsibilities, duties, and privileges of parties

Sec. 11. (a) The Commission, in addition to the responsibilities and duties vested in it by other sections of this Act, may promulgate such rules and initiate such procedures as it finds necessary to the implementation of this Act.

(b) The blind person licensed by the Commission to operate one of its vending facilities on state property, in exercising the privilege granted by the license, shall operate the vending facility,

(1) in accordance with all applicable federal, state, and local laws;

(2) in accordance with the rules, regulations, and policies promulgated by the Commission.

(c) The agency in charge of state property shall

(1) exert every effort to cooperate with the Commission and with the blind persons it licenses to operate vending facilities on state property, in order to accomplish the purposes of this Act;

(2) furnish all necessary utility service, including connections and outlets necessary in the installation of the facility, janitorial, and garbage disposal services, where feasible, and other related assistance.

Applicability

Sec. 12. (a) The provisions of this Act do not apply to property maintained and operated by state-supported institutions of higher education, or property over which control is either wholly or in part maintained by the federal government.

(b) No vending facility operated by a blind or otherwise vocationally handicapped individual, nor any vending facility location surveyed by the Commission, is to be closed because of the transfer of state property from one agency to another, the reorganization of a state agency, or the alteration of a state building, unless the closing is agreed to by the Commission or the Division.

(c) The provisions of this Act apply immediately to all state property having no vending facilities or having only vending facilities installed by the Commission.

(d) None of the provisions of this Act shall apply to vending facilities operated by an institution under the control and management of the Board for Texas State Hospitals and Special Schools or its successor in function so long as such vending facility is operated for the benefit of the patients of the institutions without profit.

(e) Section 8(b) and (c) become applicable to state property having vending facilities other than those installed by the Commission six months after the effective date of this Act; all other provisions of this Act are of immediate applicability.

(f) Nothing in this Act shall be construed as prohibiting the Commission from selecting blind persons for operating other types of vending facilities or business enterprises determined by the Commission to be suitable for operation by blind persons, or as prohibiting the installation of automated vending facilities serviced by blind persons, or as precluding agreements between the Commission and heads of state-supported institutions of higher education leading to the utilization of blind labor in vending facilities at state-supported institutions of higher education, if there is agreement that the utilization of blind labor would be of mutual advantage to all concerned parties.

Repealer

Sec. 13. Chapter 47, Acts of the 50th Legislature, Regular Session, 1947, as amended by Chapter 490, Acts of the 57th Legislature, Regular Session, 1961,¹ is repealed. Acts 1966, 59th Leg., p. 445, ch. 227.

Mr. HUMPHREYS. One area of State activity where there is a lack of uniformity was of particular concern to the Senator, and this is in the area of set-aside funds. The contribution of blind vendors varies for 1 to 10 percent of gross sales, which for the average stand would be between \$700 and \$7,000. Some States do not even have set-aside funds. Should not these contributions be uniform as to maximum and minimum, and as to whether they are based on net profits or gross sales? What would you recommend?

Mr. HOEHNE. I would recommend several things, and certainly agree with your question that they ought to be uniform both as to maximum and minimum amounts that could be collected. But I would like to point out that we do have many differences. In some States the vending stand program preceded the enactment of the Randolph-Sheppard Act. In 1931 the State Commission of the Blind in Texas established its first vending facility and had in operation 10 to 12, about the time the Randolph-Sheppard Act was passed in 1936. In fact I believe the fact that certain facilities were being operated successfully in county courthouses and State buildings is one of the things that prompted Senator Sheppard at that time to have a bill on the Senate side.

Throughout the testimony I sat through this morning, one thing did strike me and I think it is responsive to the question that you posed. Mr. Humphreys, to say that somehow in the legislation and regulations there should be required to assure that people most vitally involved in this program, blind vending facility operators, have some voice in determining what these standards should be. I think that we do have to ask the basic question, what do the blind vending facility operators really want? How much management service do they need? Do they want to keep their own books? Do they want to file their own tax reports as they do in Texas? Do they want this service provided by State agencies as it is in Arkansas? Do they want their banking done on their own? Do they want somebody to come by as a matter of convenience for them to pick up receipts and handle their banking? This is an expense that they have to be prepared to assume. But they should have within the scope and regulations, the statute itself, whatever, a very substantial voice in determining what the minimum and upper limits are going to be in set-aside funds, and then beyond this some voice in determining within the States how much of this they want to pay for.

Now I want to point out a couple of other things in response to that question. I think the system, whether it is one that you try to develop in statutes, and frankly, I do not think that is going to be feasible, or if it is a system that you develop regulations, is one that is going to have to have some latitude and some flexibility, you have a lot of different stands, and a lot of different types of location, some very large, some we call wet stands, where soft drinks and coffee are sold. You have higher profitability factor there than you do in a stand where you do not sell that type of product. You have some locations that are operated by three or four blind individuals. You have some that have the same income potential that are operated by only one blind individual.

What we have in Texas that has been approved by HEW as a rate schedule is something that establishes four classifications. If a large stand has several operators, a lower fee is paid than if the same stand

is operated by only one individual. We have a separate rate for dry stands than we do for wet stands. We have a rate that allows us to get into the kind of unique, experimental type enterprises, determine if these things are reasonable, this is a part of our program, in those instances we are allowed to establish a temporary rate until we get some practical experience inside the profitability of the thing.

I would also like to point out that the regulations, in however form they might be established, should take into account some geographic differences. We have a different problem in Texas under statewide programs than they do in Rhode Island. This has implications for how much money is reasonably necessary for the management services and other things that require administration.

Finally, Mr. Humphreys, I would plead that the State agencies be given ample time to change the State law where there are State statutes now provided that no amounts are to be collected and that a specified amount should be collected. We would need a year to come into conformity with any regulations in that regard.

Mr. HUMPHREYS. That is very responsive and very helpful. I suppose you have a built-in bias toward the Texas system, but it sounds like Texas is in fact in the vanguard of State agencies in providing fair and adequate treatment for the blind vendors which they license. Do you believe there should be a standard fair minimum return for blind vendors nationwide?

Mr. HOEHNE. I do very much believe that there should be, but I am not sure that it has to be accomplished by taking money from the larger stands and providing it to marginal stands. I think again as a matter of institutional economics, the current impetus throughout the program is such that small marginal stands are being phased out. We are becoming more sophisticated in the operation of this program. Unless a stand can provide a decent income for an individual, it should not be operating in the first instance or maintained. I am not speaking on behalf of the National Council. We have not taken a policy position. This is purely personal reaction to your question.

Mr. HUMPHREYS. If the fringe benefits provision of S. 2581 become law, what impact will this have on State agency set-aside funds, and should we make any special provision for this in S. 2581?

Mr. HOEHNE. Well the original problem of setting up a fringe benefit program would be one of capitalization, pension program, and this sort of thing. I frankly do not believe that it is feasible for a State licensing agency to set up a requirement program for a large number of operators without some sort of money coming in outside of contributions they are making. I would hope that it would be possible to at least during the initial phases of getting such a program established, to use part of the money now accruing from vending facilities that are in competition with the blind vending facility operations. I think it is only fair that people have been for too many years denied money to which they are entitled anyhow; that is instead, going to people who have no legal right of it. This is how I would see such programs being established.

Outside of that it would probably require separate appropriations from a State legislature or separate appropriations from Congress.

Mr. HUMPHREYS. Somewhat akin to that, are blind vendors in your opinion eligible to take advantage of the so-called "Keogh plan" provisions in the Internal Revenue Code which permit establishment of

retirement plans for self-employed individuals? And if so, do you know whether vendors are participating in the plan and how extensively is it now used?

Mr. HOEHNE. We have had a consultant who specializes in that sort of thing working 2 years now on the Texas program, to see if that is a viable alternative for establishing retirement programs. He feels that after researching statutes and everything, certainly they could use the Keogh plan. No one, however, is using it now. Instead the operators through their advisory committee have recommended that the State agency take the initiative in setting up and administering the retirement program.

It is a very complicated matter, but should S. 2581 pass, what we would have in mind is setting up a non-profit corporation under the Texas non-profit corporate statute, which would in effect give them the same tax advantages that other professional people and business now receive.

Mr. HUMPHREYS. Thank you. One final question. What specific improvements in the Federal administration of the Randolph-Sheppard program would you like to see implemented?

Mr. HOEHNE. There was a question from Senator Stafford to the group from RSA about the correlation between S. 2581 and the new rehabilitation legislation. As I mentioned at the outset, I think there is a direct correlation in that the Rehabilitation Act of 1973 has a material and significant impact from the needs which you intend to address with S. 2581. To this date, Mr. Humphreys, no one from the National Council of State Agencies for the Blind has been favored with any official copy or anything of the new regulations to implement the Rehabilitation Act of 1973. The input has been very limited in terms of working with RSA staff in developing appropriate regulations, and hopefully this will be corrected as they get something in the draft stage in the weeks ahead. But I would suggest the first thing would be a little bit more cooperation and communication between organizations such as ours and the RSA officials, starting at the top levels within that department.

I would also suggest that we need to have considerable expansion and strengthening of staff capabilities of the Office for the Blind and Visually Handicapped. I say that while being deeply appreciative as are all the members of our organization of the tremendous amount of assistance, guidance, leadership which we presently receive from the people who are in that office, but the expectations that are imposed upon that small group of men are unreasonable and unrealistic.

We have, as I testified earlier, for 6 years now been asking the department to please address this problem, to please give us some help, and that help has not been forthcoming. In fact there are less people assigned to the Office for the Blind and Visually Handicapped today than there were when I came into this field to work in 1959. We feel that this has to be addressed.

Mr. HUMPHREYS. Your testimony has been very helpful to the Committee and I know that both Senator Randolph and Senator Stafford would like to have been here for your presentation. But as you can hear by the bells, the legislative activity is very strenuous today, and again on their behalf I want to thank you very much for coming.

[The prepared statement of Mr. Hoehne follows:]

STATEMENT OF CHARLES W. HOEHNE, GENERAL COUNSEL,
NATIONAL COUNCIL OF STATE AGENCIES FOR THE
BLIND, BEFORE THE SPECIAL SUBCOMMITTEE
ON THE HANDICAPPED, SENATE LABOR
AND PUBLIC WELFARE COMMITTEE

On. S. 2581

The Randolph-Sheppard Act Amendments of 1973

Friday, November 16, 1973

Mr. Chairman and Members of the Subcommittee:

On behalf of the National Council of State Agencies for the Blind, I want to express deep appreciation for the opportunity to offer testimony before this special subcommittee on S. 2581, the Randolph-Sheppard Act Amendments of 1973. The president of the National Council of State Agencies for the Blind is Robert L. Pogorelc of Oregon, a former member of the staff of the Office for the Blind and Visually Handicapped within H. E. W. The immediate past president is Howard H. Hanson of South Dakota, whom you will recognize as a long time leader in this field of work. The president-elect is Burt L. Risley of Texas, who while serving on advisory committees to the Department of Health, Education and Welfare during the administrations of both President Johnson and President Nixon strongly advocated reforms of the type proposed in S. 2581. Our treasurer is Charles Freeman of Missouri, and our secretary is Sam Early of North Carolina. The remaining positions on the executive board of the National Council of State Agencies for the Blind are occupied by (Mrs.) Elaine Parker of Tennessee and

Joseph Kohn of New Jersey, both of whom serve as directors at large. The combined experience and service of these individuals in this field is vast indeed, and I deem it a high honor to be designated to express their point of view on S. 2581 before this subcommittee today.

Mr. Chairman, I am instructed by these members of the National Council's board to convey to you our organization's deep and continuing appreciation for your sensitivity, understanding and leadership in connection with closely related legislation enacted during the present session of the Congress. I refer, of course, to the Rehabilitation Act of 1973. While we do regret that Public Law 93-112 does not contain the long overdue and commendable features of the earlier bills passed under your effective and informed leadership and then subjected to Presidential vetoes based upon grounds which we continue to regard as factually insupportable--if indeed explicable or logically defensible according to any rational or relevant standards--the Rehabilitation Act of 1973 does nevertheless represent a significant step toward that progress and improvement to which our organization is fully dedicated. We express our heartfelt gratitude to you for the most capable effort exerted in relation to the new rehabilitation legislation, and we assure you of our continuing commitment to those salutary service objectives embodied in the vetoed legislation but not expressly contained in Public Law 93-112. We fervently hope that you will again be with us in these halls at another time when we renew our continuing effort to obtain,

as a basic and central component of the nation's rehabilitation statute for handicapped Americans, express authority, specific encouragement and adequate resources with which to undertake those service activities which prevent the occurrence of blindness (and thereby preclude the necessity for extended and costly rehabilitative services) and also with which to undertake meaningful service activities for those who most urgently require the special attention and services of rehabilitative programs--the elderly blind, the multiply handicapped blind, and children with visual limitations of such severity that in the absence of special services of the type our member agencies can best provide, the full practical benefit of other existing services and resources is largely lost. In the meantime, pending the renewal of our long and mutual effort toward these constructive and necessary ends, we respectfully suggest that the enactment of the Rehabilitation Act of 1973--encouraging as it does the provision of rehabilitation services on a priority basis to those individuals with the most severe handicaps--heightens the importance and necessity of timely approval of S. 2581, the Randolph-Sheppard Act Amendments of 1973.

The officers of the National Council deeply regret that it is not practicable for individual testimony to be offered by them on this legislation. In order to conserve your time, and in the interest of economy, they have directed me to represent the National Council at this hearing and to state the position of our organization with respect to S. 2581.

The National Council of State Agencies for the Blind strongly supports S. 2581, although we shall present for your consideration certain general suggestions which we feel would tend to facilitate the administration of the Randolph-Sheppard program and provide for certain other improvements. Before going into the specific suggestions, however, I would like to stress that in general we see a great need for the types of reforms proposed by S. 2581, and in this legislation we see great potential. Although the benefits for the rehabilitation movement in this country will be large, the costs for American taxpayers will be virtually nonexistent.

Unlike certain organizations who might question this legislation, the member agencies of the National Council have no financial stake in S. 2581. Our organization's sole concern is that this program be made more relevant to blind persons who operate these vending facilities in order to support themselves and their families, and that the Randolph-Sheppard program continue to serve as a constructive model for all who are involved in the vocational rehabilitation of the handicapped.

Identification

Mr. Chairman, for purposes of identification I wish to advise that, as a result of my affiliation with the Texas State Commission for the Blind, I have been involved with the Randolph-Sheppard program for approximately fourteen years. For the past eight years, I have served as that

Texas Commission's assistant director. For several years now, I have served as general counsel for the National Council of State Agencies for the Blind. At this time, I am serving as general counsel of the organization, and I appear before you in that capacity. I shall be happy to respond to any questions this subcommittee or its staff might have concerning specific provisions of S. 2581 or general problems encountered by state agencies for the blind in carrying out the Randolph-Sheppard program.

The National Council of State Agencies for the Blind is an organization of state governmental agencies for the blind. Within the various states, we are responsible for the administration of service programs for the visually disabled. Generally, these service programs for the visually disabled are primarily concerned with the prevention of blindness and with the extension of the full range of services affordable under either the state-federal program of vocational rehabilitation, the Randolph-Sheppard Act, or both. Basically, then, the objectives of our member agencies throughout the various states and territories relate broadly to preventing people from becoming dependent in the first instance, or, when visual disability occurs, to restoring people to useful, productive and meaningful lives. The focus of most of our services is placed upon employment. The program established by the Randolph-Sheppard Act represents a most vital component of the total program of rehabilitative services extended our clients. As you know, the Randolph-Sheppard Act requires the Secretary of the Department

of Health, Education and Welfare to designate a commission for the blind or other appropriate public agency in each state as "the state licensing agency" for the administration of the Randolph-Sheppard program within the state. The state agencies comprising the National Council of State Agencies for the Blind, of course, represent virtually all of the "state licensing agencies" designated by the Secretary of the Department of Health Education and Welfare to administer this program.

Those of us who represent the member agencies of the National Council of State Agencies for the Blind have, as I previously stated, no direct or indirect financial stake in the enactment of S. 2581. Under the Randolph-Sheppard Act and applicable federal regulations, including amendments proposed by this bill, there are no possible means by which financial benefits may accrue to those of us who are responsible for the administration of the Randolph-Sheppard program. Our compensation, rather, is exclusively a matter of appropriations by the legislatures of our respective states, and such appropriations are made from state funds and from federal funds granted to the states through other programs, such as the state-federal vocational rehabilitation program. Our interest in this legislation, however, is real, necessary and vital. That interest arises solely as a function of our responsibilities to improve the conditions of blind persons within our respective states.

Importance of the Randolph-Sheppard Vending Stand Program

The program established by the Randolph-Sheppard Act serves as a preeminent example of the manner in which the exercise of leadership, vision and wisdom by the federal government can serve as a constructive, catalytic model for government at all levels, as well as for the private sector of our society.

Thirty-seven years ago the great vision and unique insight of the late Senator Morris Sheppard and Senator Jennings Randolph, then a member of the House of Representatives, resulted in the Randolph-Sheppard Vending Stand Program for the Blind becoming a reality. In originally enacting this legislation, Congress was not only expressing concern about improving the economic and social condition of the blind; Congress also was declaring its faith in the abilities, talents and vocational potentials of the nation's blind citizens. In effect, Congress was declaring that the blind deserved more than charity. On June 20, 1936, a President, who had himself fought a long and lonely--but successful--battle against a major disability, signed the Randolph-Sheppard Act into law. In so doing, Franklin Delano Roosevelt struck a mighty blow against a widespread, popular misconception about the "helplessness" of blind persons. The misconception had existed for thousands of years. The misconception amounted to a self-fulfilling prophecy: Most people thought that the blind were fit for

little more than mendicancy; as a result of this attitude, the blind were not given the same employment opportunities as the sighted; and as a result of the lack of opportunities, all too many blind persons did in fact end up being dependent upon charity--or upon public welfare programs.

Franklin Roosevelt knew that this popular attitude was wrong and that there was no substantial or necessary basis for the myth about the "helplessness" of the blind. Morris Sheppard knew this too, and so did Jennings Randolph.

The success of this program has since demonstrated that Congress's faith in the aptitudes and aspirations of blind people was not at all misplaced. The Randolph-Sheppard program has provided thousands of blind persons with gainful employment over the years. State licensing agencies have extended the program beyond federal buildings into buildings operated by state government and by all governmental subdivisions. The greatest expansion of this program for many years now has been taking place in the private sector of our economy. If the present growth rate can be sustained, and if certain needed improvements can be made in the federal statute, the National Council of State Agencies for the Blind feels that it is realistic and perhaps conservative to project that the scope of this program can be doubled throughout the nation by 1980, both in terms of numbers of installations and in terms of the numbers of blind individuals thereby restored to independence, gainful activity and basic dignity.

Mr. Chairman, this program can stand on its own merits if we simply evaluate the program in terms of the opportunities and benefits it has provided for thousands of blind persons and for their families. It is indeed true that this program has been directly responsible for making taxpayers out of many, many blind men and women who might otherwise have had no alternative other than to be dependent upon public welfare assistance for their support. This alternative, I might add, is at once untenable as far as the blind are concerned and unacceptable to a general public already too heavily burdened by continuously increasing costs of public assistance programs.

Much has been said and is being said, Mr. Chairman, about the spiraling costs of public assistance programs in this country. In this connection, I would respectfully point out to the members of this subcommittee that the increased costs of public assistance programs cannot fairly be attributed to our handicapped population. Careful examination of the welfare rolls in almost any state will reflect continuous decreases in the number of handicapped persons receiving public assistance payments. I submit to you that this decrease comes in no small part because of the vision, courage and statesmanship of Congress in passing legislation such as the Randolph-Sheppard Act many decades ago.

It is not, however, appropriate to evaluate the Randolph-Sheppard program or S. 2581 simply in terms of the immediate benefits and

opportunities this particular program has afforded many, many blind men and women over the years--important though that may be. In a very real and readily demonstrable sense, the Randolph-Sheppard program has redounded to the advantage of thousands of other handicapped individuals who never participate directly in the program. Too frequently, public attitudes and popular misconceptions about the "helplessness" of the handicapped present individuals with far more formidable vocational obstacles than do the physical disabilities such individuals might actually have sustained.

As a result of the original enactment of the Randolph-Sheppard Act, men and women with the most catastrophic of physical disabilities were given the opportunity to demonstrate their abilities--daily, tangibly and in the most constructive manner--to a large number of the general public. As a result of the enactment of the Randolph-Sheppard Act, well-trained and capable blind persons were soon working in public buildings throughout this nation. The competence, dependability and initiative regularly demonstrated by these blind persons did much to dispel popular myths about the vocational limitations of all handicapped individuals. The original legislation, of course, served to open a door to new employment opportunities for those blind persons who participated directly in the program, but in the process, this legislation opened the gate to improved vocational opportunities for thousands of other handicapped individuals as well.

Although less amenable to precise measurement, the indirect benefits of the Randolph-Sheppard program are of vital importance. I can take you to cities in Texas where blind-operated vending stands were established in federal buildings in the early 1940's and show you dozens of jobs now being performed in private industry primarily because management became acquainted with blind persons, convinced of the abilities of handicapped people, and decided to utilize this labor resource.

I am told that in 1972 several hundred individuals with serious visual disabilities were successfully placed in federal employment. Undoubtedly, the fact that most federal agencies had at least a passing familiarity with the ability and performance of blind vending stand operators helped make this record possible. Vocational rehabilitation agencies throughout the United States are expected to restore several hundred thousand handicapped Americans to useful and productive lives by the end of 1974. This proud achievement reflects basic and fundamental changes in public attitudes about handicapped men and women--changes in attitudes brought about in no small part by programs of the type provided for in the Randolph-Sheppard Act. I am told that the pattern we find in my own state with regard to the placement of handicapped persons in industry or private business is common in many other states. The pattern is this: A blind-operated vending facility is installed in a location with several hundred non-handicapped employees, and usually in only a matter of months management is hiring other

handicapped persons for positions in no manner connected with the vending facility's operation.

The Randolph-Sheppard Act's importance for all handicapped persons therefore, is not easily overstated. For many decades, this statute has served as a most constructive example for other governmental entities, as well as for business and industry. In recent years, however, blind persons and their state licensing agencies have been encountering considerable difficulties because of various developments which Congress could not have possibly contemplated in 1936 and which have not since been considered. S. 2581 addresses itself to these supervenient developments and to the unnecessary and unfortunate problems now being encountered with regard to the Randolph-Sheppard program.

Mr. Chairman, thirty-seven years ago Congress wisely exercised leadership and initiative and in so doing, significantly broadened the economic horizons of thousands of handicapped Americans and substantially improved the quality of their lives. A generation has since passed, and many changes have since ensued. In order for continued effect to be given fully to the Congressional intent manifested in the Randolph-Sheppard Act, it is urgent that S. 2581 be enacted.

Nature of Problems Being Encountered

Basically, there are three factors which account for most of the problems now being experienced by those of us who are involved in the

administration or operation of the Randolph-Sheppard program.

First of all, we have witnessed profound technological changes since 1936. These technological changes relate to the types of products and services sold by blind persons, as well as to the methods by which such products and services may be sold. The changes experienced in marketing since 1936 compare in scope to those experienced in communications and in transportation during the same period of time.

Secondly, the federal government has undergone unprecedented growth since 1936. This growth has been accompanied by the organization of federal employees' welfare unions. In recent years, these welfare unions have become increasingly aggressive.

Thirdly, most state licensing agencies are also involved in the administration of other federally supported rehabilitative programs for the blind. Statutes applicable to the other programs, including particularly the state-federal program of vocational rehabilitation, necessarily have great and immediate impact upon the Randolph-Sheppard program. I shall not belabor the very real and immediate impact of the Rehabilitation Act of 1973; the impact of this new legislation is apparent and obvious to the members of this subcommittee who contributed so greatly to the program redirection mandated by Public Law 93-112.

While all of the foregoing are of concern to blind persons and to their state licensing agencies, it is the continuing problem of dealing with

federal welfare unions that at the present time most greatly undermines the efficient and orderly operation of this program. Not until the Comptroller General of the United States initiated his recent review of vending operations on federally-controlled property was there perceived on the part of federal welfare groups or the management of certain federal installations any significant abatement of either that overt hostility or covert subversion of the basic policies of the Randolph-Sheppard Act with which the member agencies of the National Council of State Agencies for the Blind have become all too familiar. The Comptroller General's report of this recent review--indeed, the mere fact that a review was being undertaken at all--has undoubtedly served to stimulate greater cooperation in some isolated places within this nation but we greatly fear, Mr. Chairman, that in the absence of enactment of reforms of the type proposed by S. 2581, this disdain for legislatively declared policies and this long-standing, arrogant disregard for the rights conferred to blind Americans by the Randolph-Sheppard Act will once more resume--in full force and with all of the insidious manifestations we have noted over the years. It is this particular problem that serves to defeat the legislative policy originally stated by Congress with great clarity, precision and plainness. It is because of this problem that other, less substantial problems arising in the course of this program's administration and operation become unnecessarily complicated and unduly cumbersome.

In originally passing the Randolph-Sheppard Act, Congress clearly intended that blind persons were to be given a preference to operate vending facilities on federal property. The language of the statute is clear, simple and straightforward. In all too many instances, however, the efforts of welfare unions to avoid the effect of the statute are ingenious, strained and sophistic--but effective.

In dealing with federal employees' welfare unions, state licensing agencies encounter a number of basic, recurrent problems. Frequently, attempts are made to forestall the installation of blind-operated facilities in the first instance. Or, once the vending facility is installed, the blind operator may be presented with direct, substantial and unreasonable competition from vending machines sponsored by the local welfare union. More recently and with increasing frequency, we see burdensome, onerous and entirely unreasonable demands placed upon blind operators of Randolph-Sheppard vending facilities. We see absurd demands made for costly equipment nowhere requested for blind-operated vending facilities in private industry. Blind operators of vending facilities on federally-controlled property find themselves subjected to rigid inspections which could be passed by few, if indeed any, non-handicapped operators of related types of facilities in the private sector of our economy. Arbitrary action in relation to prices is unreasonably attempted by managers of federal buildings in response to heavy pressure from federal welfare groups ostensibly

demanding privileges and consideration employees in private industry would be abashed to ask--but the real reason for such action is harassment and discouragement of the blind operator of the vending facility. State licensing agencies are called upon to provide vending services at hours and under conditions which no business organization sanely and responsibly conducted for profit would undertake. Yet, Mr. Chairman, state licensing agencies and the blind individuals whom they serve are without any effective recourse or viable method of redressing such injustices--and that shall be true as long as each federal agency is, in a manner inconsistent with all rational and contemporary standards of justice, allowed to try its own case.

Disputes of this type are most unfortunate. Such disputes obviously are inconsistent with the broad, established policy of the federal government with regard to the employment of handicapped persons. Above all, however, such disputes are costly. To cite one specific example, the Texas Commission for the Blind became involved in one such controversy several years ago with a federal agency upon which heavy pressure had been exerted by officers of the local welfare union. The dispute related to the division of proceeds from vending machines in competition with a blind-operated vending facility, and pending settlement of the dispute, the vending machine proceeds were simply placed in escrow. Almost a year passed before settlement was finally achieved. During that period, staff time, travel cost and communication expenses consumed by the dispute amounted

to thousands of dollars from the Commission's budget. Undoubtedly, similar amounts were expended on the dispute by the federal agency. Since the Commission derives the greatest part of its financial support from federal funds, the federal government was in effect underwriting most of the administrative cost of this particular controversy. When settlement was finally achieved, the representatives of the local welfare union learned that anticipated revenues from vending machines were considerably less than had been projected, largely because rank-and-file federal employees preferred the blind-operated vending facility to vending machines. The vending machine proceeds in controversy amounted to only a few hundred dollars at the end of the year--or, calculated another way, only a few cents each month per federal employee working in the building.

I might add, parenthetically, that the vending machine company subsequently found it necessary to remove most of its machines from this particular building and that blind-operated vending facilities in this building presently are affording gainful employment to as many as eight seriously handicapped persons at a time.

Mr. Chairman, I want to make it clear that I most certainly am not indulging in wholesale criticism of federal employees. Such criticism is not my intention and such criticism would be inappropriate. Blind persons who operate vending facilities on federal properties find the overwhelming majority of federal employees to be courteous, understanding

and enlightened. They find that the great majority of the federal employees they serve are much too concerned with their work and entirely too dedicated to the mission and objectives of their respective agencies to have time to quibble over the three or four cents per month which might in theory accrue to each federal employee if blind-operated vending facilities were to be supplanted by vending machines. Most emphatically, the National Council of State Agencies for the Blind appreciates the excellent cooperation and support given blind operators of vending facilities by most federal employees. Most particularly were we gratified by and appreciative of the endorsement given to S. 2461 in 1970 by one of the more responsible, enlightened and progressive of the various federal employees' organizations, when the effort was last made to update and improve the Randolph-Sheppard Act.

Given the commendable attitudes of most federal workers, it seems most anomalous that state licensing agencies should continue to have difficulties with federal welfare unions. Perhaps if federal agencies required welfare unions to make detailed accountings to some central agency such as the Bureau of the Budget or the General Accounting Office, of the uses made of these vending machine revenues, some light might be shed upon this anomalous situation. Presently, however, no such accounting is required. Members of the National Council have attempted, quite vainly, to determine precisely how such money is used by welfare unions. The

Comptroller General of the United States, however, was somewhat more successful in obtaining insights on this question during his recent review of vending operations on federally-controlled property, although there may be some question as to whether even the Comptroller General is able to obtain full, comprehensive and complete information through a survey of the type conducted. In any event, we do note, Mr. Chairman, that at page 37 of the report recently transmitted to this subcommittee at your request, an indication is made of the general nature of the use made of this money by at least some of these federal welfare groups: \$646,904 for recreation and trophy costs; \$206,498 for retirement or separation parties and gifts; \$72,689 for radio and public address system costs; \$67,910 for birth, wedding and death remembrances; and \$597,972 for gift certificates, coffee, turkeys, and scholarships. This represents, Mr. Chairman, a total of \$1,591,973 in added compensation to federal employees--benefits not so funded for employees of state government or political subdivisions, nor so funded for employees working generally in the private sector of our economy. The figure, moreover, is not derived from a comprehensive study of all federal properties throughout these United States, but rather from a small and narrow sample of federal properties surveyed. We do not suggest that such purposes are unworthy or that it is inappropriate to expend money in this manner--but workers in state government, in city government, in county government, and in private industry do not appear

to have an inordinate amount of difficulty in carrying on such activities without derogation to meaningful employment opportunities for blind individuals.

Mr. Chairman, I will readily stipulate that such activities undoubtedly contribute to the morale of at least certain federal employees. I will further concede that the morale and welfare of federal employees is a most legitimate concern of Congress and of this subcommittee. At the same time, however, I would very vigorously assert that Congress, through its appropriations for salary increases and various fringe benefits, has already done much to improve the morale and to secure the welfare of those persons who are employed by the federal government. I would further point out, respectfully, that blind operators of vending facilities on federal properties tend, on an average, to earn less than many of the federal employees whom they serve, that these blind persons have no paid vacations, that they have no sick leave benefits, that most of them work in excess of forty hours per week, and that these blind men and women have no retirement programs nor any paid group insurance programs.

To me, the issue seems entirely clear. The basic task is one of balancing equities, and that is precisely what S. 2581 attempts to do. What the General Accounting Office's report entitled "Review of Vending Operations on Federally Controlled Property" reflects, in brief, is a totally supercilious and inverted order of priorities and sense of values. What

S. 2581 would, in short, do is correct a situation which can only be characterized as unconscionable.

The demand by federal welfare unions for a share of the economic opportunity Congress intended to vest exclusively in the blind is presently without precedent in state government, in other governmental subdivisions, or in private industry. Hopefully, most leaders of labor unions operating in industrial locations served by blind operators of vending stands would be embarrassed to assert such demands. In this connection, however, it should be noted that the Randolph-Sheppard Act does in fact serve as a model for the rest of the country.

That is why enactment of S. 2581 presently is a matter of such urgency.

Effect of S. 2581

For state licensing agencies, S. 2581 will simply extend to federal installations the substantive methods of program operation now used with regard to vending facilities located in state and municipal buildings or in locations provided by private industry, while at the same time providing specific authorization for state licensing agencies to rely upon in establishing programs through which blind operators of vending facilities may enjoy the same retirement, insurance, sick leave, and related types of benefits as are now common to all other groups of workers.

S. 2581 provides for no radical change or modification of the existing Randolph-Sheppard program. As mentioned, there have been a variety of technological and legislative developments subsequent to the enactment of this statute in 1936, and many of the provisions of S. 2581 simply update the Act to accommodate such changes and to eliminate provisions which have become archaic over the years.

Although S. 2581 will harm no person who might be employed by the federal government, the bill would be of immense benefit to thousands of visually disabled persons--both to those who are presently operating vending stands and to those who will be operating these facilities in the future. Through the exclusive assignment of vending machine income, S. 2581 resolves once and for all the central cause of most of the problems encountered both by state licensing agencies and blind individuals involved with this program--eliminating that area of continuing and ever-increasing contention in the only way that this problem ever can effectively be resolved. The exclusive assignment of vending machine income to blind operators of vending facilities and to their state programs, I might add, is hardly without precedent, but simply would extend to the federal area what is already a common practice with respect to vending facilities located on state, county city or private properties. No federal employee will by virtue of the exclusive assignment provision be denied any compensation or benefit to which he is rightfully entitled by law and, in fact, the overwhelming number of

federal employees, as well as visitors in federal buildings, will never be aware that this simple but vital reform has occurred.

The bill before this subcommittee contains no new expression of Congressional intent. S. 2581 simply requires that all concerned parties exercise more good faith in giving fuller effect to the intention declared by Congress thirty-seven years ago. The proposal would not preclude all future disputes between state licensing agencies and federal agencies who might find the demands of local welfare groups to be meritorious, but the bill would provide an effective, viable mechanism for the fair, impartial and more efficient resolution of such disputes.

Comments on Specific Provisions

I have been asked by the National Council's executive board to comment specifically upon that provision of S. 2581 which would authorize an expanded use of set-aside funds, so as to provide a specific basis for enriching and improving the existing Randolph-Sheppard program through the provision of retirement or pension funds, health insurance contributions, and provision of sick leave and vacation time. This provision, together with the procedural safeguard contained in Section 5 of S. 2581 as well as the practical safeguard of adequate program monitoring as provided for in Section 9, is strongly endorsed by the National Council. We feel that, insofar as practicable, blind operators of vending facilities within a particular

state should be afforded the opportunity to have a fringe benefit program which approximates the fringe benefit program available to employees of state licensing agencies. In some instances, this would make appropriate the consideration of term life insurance at group rates or, if the operator is willing to pay the premium difference involved in converting to an ordinary life policy, then the latter type of insurance. In that, as you are undoubtedly aware, blind individuals frequently encounter considerable difficulty in purchasing insurance at non-discriminatory rates, and with further consideration to the fact that blind operators of vending facilities are, in the main, unable to make adequate provision for their retirement or absence from duty in these times of rapidly rising prices, this provision is seen as critical. We would invite particularly careful attention to this language used in this provision of Section 5 of S. 2581, and urge that blind operators of vending facilities be assured the opportunity, if a majority so desires and so indicates in a fair and freely conducted election, to enjoy the same types of benefits as are now commonly associated with virtually every other type of employment.

This provision, moreover, is not only desired by state licensing agencies, but also by large numbers of blind individuals who have no other viable way in which to secure retirement, insurance, and leave benefits, other than through the type of group program envisioned in Section 5. Representatives to the National Council report that in state after state,

blind operators of vending facilities overwhelmingly request that a program of this type be expressly authorized. In my own state, for example, the state agency for the blind relies heavily upon an elected advisory committee for assistance in matters related to the policies or administration of the vending facility program. That advisory committee more than a year ago, as its recommendation of highest priority, recommended to the state agency that such a program be established. In subsequent work undertaken pursuant to this recommendation, members of the advisory committee unanimously reported back to the agency that following a survey of all participants in the vending facility program operated by the state agency, only two individuals had expressed reservations about such a program. While much progress was then made to design and get in place the basic machinery with which such a program could be conducted--including the obtaining of professional consultation and including the development of specifications for bid by interested organizations having the capability of providing the desired coverages and benefits--implementation has to this date been forestalled because of uncertainty about the state agency's legal authority to undertake the type of program requested. We respectfully request that this uncertainty be eliminated, not only for Texas but for all of the states where blind individuals might desire a program of this type.

While we make this request in part to respond to the desires of the blind individuals most immediately and directly affected, there is an

additional reason why we assign high priority to this provision. The difficulties which generally confront all blind persons in obtaining adequate insurance coverage at fair rates is a matter of common knowledge. This provision, therefore, would afford state agencies for the blind a method for assembling the statistical information required to demonstrate scientifically, empirically, and conclusively that the actuarial tables and risk statistics presently relied upon by the insurance industry to the prejudice of all blind Americans are unsound, inadequate, and archaic. Thus, in this manner and with regard to this particular matter, the Randolph-Sheppard Act would redound not only to the advantage of blind persons immediately and directly involved with the program, but rather--as has so demonstrably been the case in the vocational area for more than thirty-seven years now--to the real and genuine advantage of all blind Americans generally.

The binding arbitration provision contained in subsection (a) of Section 5 of S. 2581 represents something about which certain reservations have been expressed. These reservations, however, go more to the procedures presently specified in Section 7 of S. 2581 than to the concept of affording all blind licensees a means of obtaining fair, impartial, and timely review and resolution of grievances. Certainly, at this late date no responsible person should or would object to the appropriateness of assuring handicapped individuals both their substantive rights and the procedural due process required for the full enjoyment of those rights. Whether

however, the procedures specified in Section 7 of S. 2581 represent the best method of accomplishing desired ends might be regarded as problematical. We suggest that it might be more appropriate to provide that the same general type of recourse be made available at the state level, without initial involvement on the part of the Secretary of the Department of Health, Education and Welfare. There are no strong objections to the concept of arbitration as such, but it would seem that the same ends could be accomplished in a more wieldy, less cumbersome, less costly, and more expeditious manner if a similar type of arbitration panel might be established at the state level. Such a panel could consist of one person designated by the aggrieved licensee, another person designated by the state licensing agency (where the dispute might be between the licensee and the state licensing agency) and then a third arbitrator--possibly someone from the office of the state's attorney general--designated by the other two arbitrators. As presently written, however, the central office of the Department of Health, Education and Welfare could find itself involved in numerous disputes of a narrow and isolated nature, and there are no standards which would preclude frivolous or spurious complaints being filed at this level.

While adequate protection should be given to the rights of all blind licensees, we would hope that careful consideration might be given to these provisions of Sections 5 and 7 of S. 2581, with a view toward the development of language which would tend to promote the development of

closer and more effective working relationships between blind licensees and their state licensing agencies, rather than possibly encouraging unnecessarily acrimonious and contentious relationships. Again, the improved program monitoring and technical assistance capabilities implicit in the expanded manpower requirements set out in Section 9 of S. 2581 should do much to upgrade and make more uniform those standards of fundamental fairness and decency which may not at times in the past have consistently obtained among all state licensing agencies.

The function of state licensing agencies is to assist blind individuals who desire to undertake the operation of vending facilities, or who are already so employed, or who might desire or need to achieve upward mobility within this program. It is felt that provisions which might unduly stimulate the development of adversarial relationships as between the state licensing agency and present or prospective blind licensees should be evaluated with the utmost care and considered with great caution.

I would stress again, Mr. Chairman, on this issue of arbitration, that the members of the National Council of State Agencies for the Blind do not propose to have it both ways. We do not say that we should, with respect to the grievances of blind licensees, be trying our own cases, while at the same time protesting with the greatest vigor existing provisions which in effect allow federal agencies, with respect to disputes between state agencies and such federal agencies, to try their own cases.

What we do say is that it would be advisable, in our judgment, to provide for arbitration mechanisms which are somewhat less cumbersome, costly and time-consuming than what would appear to be the case with the mechanisms required under the present language of Section 7 of S. 2581.

In that regard, if the objective is to promote and foster good working relationships between all parties of interest, serious questions might be presented about the wisdom of allowing a licensee to prosecute a grievance against a federal agency personally and directly. As a practical matter, this would appear to place upon a blind licensee a burden few independently employed businessmen would care to undertake or which they could effectively discharge. Is not the effective representation of the interests of blind licensees a basic and essential part of the "management services" which have for so long been regarded as the responsibility of state licensing agencies? At the minimum, we respectfully suggest to the subcommittee that it would be advisable that as a precondition to the direct and personal prosecution of a grievance against a federal agency, the operator should be required to have exhausted his remedies available through the state licensing agency. This, it is felt, would contribute to a more practical and effective resolution of grievances based upon vital issues or substantive matters.

The National Council of State Agencies for the Blind is, Mr. Chairman, firmly committed to the idea that the right to judicial review

should expressly be preserved to any aggrieved party of interest--whether that party be the blind licensee, the state licensing agency or a federal agency. Purely as a technical matter, then, a question is raised about the appropriateness of using the terminology "binding arbitration".

Finally, Mr. Chairman, I wish to express our entire support for that provision of Section 9 of S. 2581 which would result in improved and expanded manpower capabilities within the Division of the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education and Welfare. We deeply appreciate the assistance and guidance now extended by this obviously understaffed division, and we look forward to working even more closely with an expanded manpower complement in capitalizing fully upon the high service potential of this legislation and closely related statutes.

The National Council of State Agencies for the Blind is proud to commend S. 2581 to this subcommittee, and it is my honor to convey to you, on behalf of our organization, our firm and unequivocal commitment to the full realization of these benefits which this legislation promises to blind Americans.

Mr. Chairman, we thank you for this opportunity to testify in behalf of this proposal, and we urge favorable consideration and prompt enactment.

MR. HUMPHREYS. Our final witness for today is Mr. Fred Tammen, field consultant for the National Rehabilitation Association. After that, we will terminate for the day.

**STATEMENT OF FRED R. TAMMEN, FIELD CONSULTANT,
NATIONAL REHABILITATION ASSOCIATION**

MR. TAMMEN. Mr. Chairman, I would like to express appreciation on behalf of the National Rehabilitation Association for the opportunity to testify before this subcommittee on such important matters as contained in S. 2581. The NRA strongly endorses this legislation and urges the subcommittee to report it promptly.

In previous testimony before the subcommittee and before other committees, the National Rehabilitation Association has made clear the fact that it considers the Randolph-Sheppard Act to have been landmark legislation as related to the rehabilitation of severely handicapped individuals.

It not only has given business opportunities to thousands of blind individuals, but has also given those individuals the opportunity to become a contributing, productive member of society in a very meaningful way. The gainful employment possibilities evolving from the enactment of the Randolph-Sheppard Act has become a showcase worthy of emulation.

With respect to the amendments under consideration, I would like to say that the extension of blind vending facilities to all Federal properties to the extent that it would not adversely affect the interest of the United States is sound legislation, which greatly broadens employment opportunities. The exclusive assignment of income from all vending machines on Federal property to the blind licensee or the licensing agency is a forward progressive move that has long been overdue.

It has been a disappointment on two separate occasions, to this association, to note the opposition expressed by various groups under the aegis of employee welfare organizations which served only to delay the passage of these important amendments.

Next, I would like to say that the National Rehabilitation Association supports the amendments contained in section 4 and section 8 of S. 2581, which requires the commissioner of the Rehabilitation Services Administration, within 180 days following the enactment of the legislation, to develop and furnish regulations and guidelines for the implementation of the new provisions which will obviously strengthen and provide for national uniformity in the operation of vending facilities for the blind.

The requirement that no department, agency or instrumentality of the United States shall own, rent, lease or otherwise occupy any building, unless it is determined after consultation with the Secretary and the State licensing agency, that such building is suitable for a vending facility for the blind, is good legislation and will make available business opportunities for many additionally severely handicapped individuals.

We think, also, that the new definitions of "blind facility," "agency," "satisfactory site," "blind person," and "Federal property," will add clarity and simplify the administration of the law.

Section 7 of S. 2581, which redesignates sections 5, 6, and 8 of the law, and includes binding arbitration of disputes between the licensed blind individual and the licensing agency gives us some concern.

The National Rehabilitation Association has long supported the right to appeals, right to a fair hearing, and the rights of the judicial process through courts for redress of grievances. We recognize that this can be cumbersome, but it is the acceptable path to due process. On the other hand, the right of one individual to seek and secure binding arbitration of almost any kind of dispute with the licensing agency is without precedence in the field of human service, so far as we know, and such a right could be easily abused and consume much valuable time on the part of all parties involved over matters that may not be significant or widespread. Without opposing this section in toto, we request the committee to study its possible implications. If the provision is retained, it might be wise to limit its application to a prescribed set of circumstances.

Then finally, Mr. Chairman, we think that S. 2581 is sound legislation, badly needed, and long overdue. Prompt enactment of these amendments will help assure that nonblind organizations and individuals will no longer be able to subvert what appears to be the clear intent of Congress. You are to be commended on your persistence in seeing that this legislation is passed and that blind individuals operating vending facilities on Federal properties are not subjected to unfair competition, but will be able, in greater number, to pursue their life-sustaining goals.

I will be happy to answer any questions you might have.

Mr. HUMPHREYS Thank you, Mr. Tammien. The committee has no questions for you. We thank you for appearing.

Because of the multiple votes in the Senate Chamber on the Energy Petroleum Act, Senator Randolph and others are unable to return to the hearing room.

On authority of the chairman of the Subcommittee on Handicapped, Mr. Randolph, the hearing is now in recess until Monday morning, November 19, at 10 a.m. in this room, 4200 Dirksen Office Building.

Thank you all for coming.

[Whereupon at 1:33 p.m., the hearing was recessed to reconvene Monday, November 19, 1973, at 10 a.m., in room 4200.]

RANDOLPH-SHEPPARD ACT FOR THE BLIND AMENDMENTS OF 1973

MONDAY, NOVEMBER 19, 1973

**U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED
OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE,
*Washington, D.C.***

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 4200, Dirksen Office Building, Hon. Jennings Randolph, chairman of the subcommittee, presiding.

Present: Senators Randolph and Stafford.

Staff present: Robert R. Humphreys, special counsel to full committee, Michael A. Francis, legislative assistant to Senator Stafford, and Roy H. Millenson, minority professional staff member.

Senator RANDOLPH. Good morning ladies and gentlemen. Our first witness is the Assistant Commissioner for Buildings Management, Public Buildings Service, of the General Services Administration, Mr. A. W. Innamorati.

If you have other associates or just the gentleman who sits on your right, please identify them, and we will open the hearing.

**STATEMENT OF A. W. INNAMORATI, ASSISTANT COMMISSIONER,
BUILDINGS MANAGEMENT, PUBLIC BUILDINGS SERVICE, AC-
COMPANIED BY ROBERT MARCUS, DIRECTOR OF CONCESSIONS
DIVISION**

Mr. INNAMORATI. Thank you very much, Senator Randolph. I am very happy to appear before this Subcommittee on the Handicapped on behalf of Mr. Arthur F. Sampson, Administrator of General Services. In response to your invitation to express the views of GSA on S. 2581, "A bill to amend the Randolph-Sheppard Act for the Blind to provide for a strengthening of the program authorized thereunder, and for other purposes."

The Randolph-Sheppard Act provides that preference be granted to licensed blind persons to operate vending stands and machines on Federal property. It provides blind persons with remunerative employment, enlarges the economic opportunities for the blind and stimulates blind persons to greater efforts in striving to make themselves self-supporting.

I would like to state, at the outset, that GSA supports the objectives of S. 2581.

This position is demonstrated by the fact that GSA has traditionally recognized preference for the blind in buildings it operates. According

to Department of Health, Education, and Welfare statistics, there are 456 blind-operated vending stands in GSA buildings. This represents 52 percent of all blind-operated vending stands on Federal property, even though GSA controls only 8.2 percent of all Federal property.

These stands gross approximately \$16.8 million in annual sales, which provide an estimated \$3.4 million in annual earnings for 514 visually handicapped persons who, in turn, employ over 340 sighted assistants. Many of the sighted assistants are handicapped individuals.

GSA affords the blind an opportunity to establish Randolph-Sheppard Act facilities in every building, whether federally owned or leased, as long as the population will justify a viable potential for the blind.

Our involvement with the Randolph-Sheppard program has not been limited to our basic responsibilities of authorizing stands, providing space, conducting inspections, et cetera. We have also lent technical assistance to enhance the efficiency and viability of vending stands in areas not technically within our jurisdiction. We have provided direct operational assistance to several State licensing agencies to improve their efficiency and enhance their viability.

We do, however, have some reservations about certain provisions of S. 2581, particularly those which, we think, adversely affect cafeteria operations in our buildings.

GSA manages 10,800 buildings, housing 805,000 Federal employees. In many of the larger buildings there is a cafeteria which is operated for the benefit of these employees. At the present time, there are 113 cafeterias in buildings housing 275,000 employees.

It is a fundamental policy of GSA that Federal employees be provided good wholesome food, well prepared, under sanitary, healthful, and attractive conditions, at reasonable prices.

To do this, the cafeterias, which are operated under commercial standards, must attract substantial patronage from the building occupants inasmuch as they provide essentially a one-meal per-day, 5-days-per-week service. There is a widely held misconception that cafeteria operators are reaping substantial profits at the expense of the blind in our building. Our cafeteria contracts limit operators to maximum profits from as low as 2 percent to a high of 6 percent of sales. There are no guarantees that contractors will realize the allowable, however modest, profit figures.

These cafeterias depend to a large degree on income from vending machines to enable them to remain viable. The inherent problems in attempting to manage viable feeding facilities have been greatly amplified within the last 12 months due to dynamic increases in operating expenses, most notably food. Moreover, there have been substantial declines in the populations of many Federal buildings.

At many locations throughout the Nation, where the building population is small and the viability of the cafeteria is marginal, the vending machine income makes possible an essential basic food service for Federal employees who are essentially restricted to eating in the building due to the limited half-hour lunch period.

With respect to the provision in S. 2581 that blind persons may be authorized to operate manual full-line cafeterias, we would like to stress that there are 113 contract food operations in buildings located under GSA management which house 275,000 Federal employees. To

subject operations of this magnitude to possible control by the various State licensing agencies would, we believe, be decidedly unwise.

We do not believe that GSA could discharge its basic responsibilities in the field of real property management to provide essential services to Federal employees through operation of cafeterias by blind persons. For this reason, we could not support the position that cafeteria operations should be covered by the Randolph-Sheppard Act.

Also, GSA has traditionally relied upon private industry to operate its cafeterias and other basic food service facilities. We believe that to depart significantly from this practice would invite substantial criticism from the private sector.

We do not enter into cafeteria contracts when suitable commercial facilities are available within walking distance of employee headquarters.

It is to be pointed out that of the 10,800 buildings which we manage, only 113 of them have cafeterias with which blind operated vending machines would compete. In many of these buildings, the vending machine income is shared between the blind and the cafeteria on a mutually agreeable basis. This leaves many buildings for almost exclusive assignment of vending machine income to the blind, although in some cases, vending machine income is shared with employee groups under a formula agreed to by DHEW as set forth in our vending stand regulations.

With respect to some of the specific provisions, we believe the heads of the departments and agencies should be given more voice than the proposed language allows in the establishment of vending facilities.

We also believe that arbitration panels are not necessary since most agencies have impartial boards of contract appeals to which disputes between blind operators and State licensing agencies can be brought and settled.

We recommend that S. 2581 be amended to reflect the views set forth herein.

Mr. Chairman, this completes my prepared statement.

Senator RANDOLPH. Thank you very much for your statement. You have been very concise and very helpful in presenting your approval of the purpose of this legislation. Is that correct?

Mr. INNAMORATI. That is correct, sir.

Senator RANDOLPH. I must perhaps say in part—I would rather say it in that way—that I differ with you on the matter of cafeterias.

I will ask you this question. What is your reason for proposing regulations which last year would have the effect of giving official sanction to the favoring of cafeterias over blind vendors? Would you want to answer that now before I ask another question?

Mr. INNAMORATI. I would be very happy to, Mr. Chairman.

Senator RANDOLPH. You mentioned it, of course.

Mr. INNAMORATI. Yes. The proposal we had contemplated with respect to our regulations really was not a revision. It was a clarification, we believe, representing that GSA would continue on a case-by-case basis to review the feasibility of allowing the blind to sell food in buildings where we had cafeterias.

Now, in buildings where we do not have cafeterias, there is no question whatsoever; we allow the blind to render food service, and they do a very good job in the smaller buildings, and we have no objection to them doing it.

It has been our contention—and our studies have borne out—that where we have cafeterias in our buildings because of this one-meal-a-day, 5-day-a-week service, it is very difficult to keep these operators viable, and to retain established food service contractors in our buildings to render a decent food service at reasonable prices.

For this reason, we believe that anything that interferes with the income from food going back to the food concessionaire makes it more difficult for the food contractor to render a decent service at a reasonable price.

Mr. Chairman, while we are very sympathetic with the blind, we just believe that our basic responsibilities in the management of buildings to render a decent food service in these 113 buildings out of 10,800 just suggests to us that we do not put the blind or anybody else in competition with the food service contract providing the basic service in that building.

We just think we cannot do a decent job for the employees we must serve in that half-hour period.

GSA becomes subject to criticism by the GAO if we require employees to take longer than a half hour for their lunch periods, if the Federal Government does not provide adequate service.

If, on the other hand, the Federal employee takes an hour for lunch anyway, we do not believe, in GSA, we should attribute the cost for that increased lunch hour to the lack of adequate facilities in the building. We believe that is one of our basic responsibilities and only for that reason, Mr. Chairman, we feel this way.

Senator RANDOLPH. I appreciate the candor with which you speak. We can disagree, but I understand very well when you speak of the obligation of GSA in this matter as you see it.

Mr. INNAMORATI. We believe, Mr. Chairman, your language as written in the act now pretty much suggests that each real property management agency function this way, that we consider it on an individual basis; what are the needs, and to the greatest extent we give favored treatment to the blind where the agency is not adversely affected nor the interest of the Federal Government.

We believe the legislation as it stands has permitted us over the years to work reasonably well in promoting installation of these facilities in our buildings.

Senator RANDOLPH. Why does GSA take the position that Federal employees need to be subsidized through food service operations? You have not addressed yourself to that point.

Mr. INNAMORATI. We do not believe, Mr. Chairman, that the return of the income from the vending machines that is derived from the Federal employees really is a subsidy to the cafeteria. We consider it as part of the total food service for that building. We do not look at it as a subsidy to the cafeteria operation when that same income is derived from the same people in the building.

Senator RANDOLPH. I ask you, do not the blind have preference under the law?

Mr. INNAMORATI. As I mentioned, Mr. Chairman, under the law as written GSA has interpreted that the income from the machines should go to the blind unless it unduly inconveniences GSA or adversely affects the interests of the United States.

We believe that if we are not able to have a viable food service facility in the building, we think the Federal Government would be

adversely affected inasmuch as the employees would be required to leave the building, perhaps for longer than this one-half-hour lunch period. So, we believe the Federal Government would be adversely affected as far as the extra costs go.

Senator RANDOLPH. It might be of value, of course, in the building if the blind vendor is there; is that right?

Mr. INNAMORATI. As I have mentioned we do have this in some of the smaller locations. We do not think in the larger buildings they can be adequately serviced this way.

Senator RANDOLPH. Well, they did not think the blind could even be vending facility operators when the law came into being. We had the Post Office Department come before this committee—I remember it very well—and say this was impossible to do. We have to think of these matters.

Mr. INNAMORATI. We know better now, Mr. Chairman.

Senator RANDOLPH. Yes. They could not do the job, yet there are 3,500 who are doing it now; are there not?

Mr. INNAMORATI. Yes.

Senator RANDOLPH. So we do have some barriers to break down along this way, but of course the chairman of the subcommittee will be reasoned in matters of this kind, I want you to know that.

I certainly, to use a trite phrase or expression, have been a friend of Federal workers. I do not have to document that here. My service in the House and in the Senate, at one time chairing the Civil Service Committee before the organization speaks to that. But I now have to ask this question very bluntly.

Why should Federal workers be in a preferred position over the general public?

Mr. INNAMORATI. I do not quite understand your question, Mr. Chairman. The small amount of the public that eats in our public buildings, who are doing business in our buildings are treated the same as the Federal worker. Of course, we do not solicit trade from the street in our Federal buildings.

Senator RANDOLPH. Do people come in from the street?

Mr. INNAMORATI. They do come in, and they get the same treatment as the Federal employees. We do not believe we favor the Federal employee. There is only one price for whoever patronizes the building. We do not feel as if we are being subsidized, Mr. Chairman. I could be mistaken. If so, I stand corrected.

Senator RANDOLPH. You are certainly forthright in your answers from your viewpoint. As I say I will be reasoned, and I know the members of our subcommittee will be. We want to write a bill; frankly, we want it to become law, because there are inequities which exist now from the original act and the amendments that have occurred through the years. That is our primary purpose.

I am not interested in a confrontation or polarization at all. I only want us to work together if possible and to bring out a measure that can pass the Congress and be helpful, keeping your organization intact for its purpose under the law, keeping the effort that we are making for the blind under the law intact insofar as is possible.

Is it true that GSA has a requirement through contract with State licensing agencies that employees of the blind vendors be sighted? If so, what is your authority for such a requirement?

Mr. INNAMORATI. The authority, Mr. Chairman, as I mentioned earlier, was that GSA tries to the greatest extent to encourage the installation of blind-managed facilities in our building. For proper sanitation purposes and to extend the resources of the blind to provide greater opportunities for them, we do permit them to serve food in some of our buildings. Only where they are serving food do we require sighted assistant to enable the blind organizations to enlarge their opportunities in our buildings. We do not require sighted assistants in any of the other stands except where there are hot food being served.

We have been working with HEW as far as the sanitation of these stands goes—and the Public Health Service does all the inspection for GSA—we are working hand in hand with HEW and the blind in promoting greater opportunities through the use of sighted assistants—thus enlarging the scope of their activities that could not otherwise be provided in our buildings. We think we are helping them, rather than hindering them.

Senator RANDOLPH. You do not believe you are in competition?

Mr. INNAMORATI. I do not think so. Many of these sighted assistants are also handicapped, and we encourage the blind to use other type handicapped individuals as sighted assistants to provide greater opportunities for them.

Senator RANDOLPH. Once again the law assigns a preference to the blind vendors; is that correct?

Mr. INNAMORATI. Yes, sir.

Senator RANDOLPH. Are you giving that, sir?

Mr. INNAMORATI. We think we are because the income from the stands goes to the blind other than the out-of-pocket expenses for the sighted assistants. We do believe we are, Mr. Chairman.

Senator RANDOLPH. Have you read the GAO report?

Mr. INNAMORATI. Yes, sir, I have.

Senator RANDOLPH. It is not necessary perhaps for me to read that report. I believe with you, of course, that we must see clean operations from the standpoint of health. That is absolutely necessary.

That report said GSA's policy is that the blind vendor stands are intended to serve building tenants rather than the public. What about that?

Mr. INNAMORATI. In the management of buildings, Mr. Chairman, GSA is continually bombarded by the private sector on the competition that we are providing them, which they say adversely affects them. They think we subsidize the installations in Federal buildings. We do not encourage nor do we discourage any trade to the blind, but basically we believe that all of the facilities in our buildings are essentially there to provide for the requirements of the Federal employee.

We receive many congressional inquiries on the part of their constituents raising the question as to whether or not we place our facilities in competition with the private sector, and we usually respond that we do not. However, we do not restrict the trade to the blind nor to our own cafeterias.

Senator RANDOLPH. May I interpose this question which is not in context? If all that is being done is what the law says, why are we having an increase in the stand operations outside of the Federal Government, but not in the Federal Government? In fact, we are losing stands. Would you give an observation on that point?

Mr. INNAMORATI. I will be very happy to, Mr. Chairman. That is not so in the GSA buildings. I have statistics here for the last 3 years that show that we have had a 5-percent increase in the number of stands, even though we have demolished Federal buildings in the metropolitan area of Washington, D.C. We are providing greater opportunities in our leased buildings, and we will provide with your good help many additional opportunities in the contact buildings which are under construction. Thus, there has been a steady growth in the number of stands installed in GSA buildings.

Senator RANDOLPH. I appreciate the distinction. I am grateful for the clarification.

Now the guidelines I believe, according to GSA, under which you have been operating, indicate that you believe a population from 150 to 1,200 would support one vending stand, and then 4,000 to 6,000 in population, two stands. They go ahead to say, "We observed several locations where two or more vending stands were operating successfully even though the building had a population of less than 4,000."

Mr. INNAMORATI. Yes, sir.

Senator RANDOLPH. Now, that is GAO. It is not a member of our staff. That is a study. Would you respond to that?

Mr. INNAMORATI. Yes. I do believe that the population cannot be the sole criterion. As you have mentioned, there is some public patronage at many of these stands. I think the location and the type of activities housed also have some bearing on that.

We try, Mr. Chairman, on an individual case basis to examine the opportunities for the blind, and we are perfectly happy to put in as many stands as would be viable in any of our buildings.

We think that to establish stands beyond what we have specified might very well make them unprofitable and perhaps require that they close down.

Senator RANDOLPH. GAO also said that some associations operate general merchandise stores which offer some items for sale that are also sold by blind vendors located in the same building.

Will you comment on that, sir?

Mr. INNAMORATI. Many of the agencies that are housed in GSA buildings have these discount stores or some similar type activity that sells, I guess, Christmas cards sometimes and candy and other goods perhaps. I think those are the two primary articles that are dispensed. They do that, Mr. Chairman, under authority which they say they have in the establishment of these welfare organizations.

I think the Comptroller General has ruled that such activities are permissible in the absence of more specific authority or legislation. I think one of the purposes of the act is to try to clarify that situation.

Senator RANDOLPH. Thank you very much. I have used considerable time, and I want to yield to the ranking minority member of the subcommittee.

I want to again indicate for the record that in our attention to these problems hopefully we can solve them with a recognition of the existing inequities understood by you from your viewpoint as well as from our viewpoint.

Senator Stafford, would you have questions at this time or do you wish to make a statement?

Senator STAFFORD. Thank you very much, Mr. Chairman.

VENDING MACHINES FOR BLIND

I will comment first that I am sorry that other events kept me from being here during the statement, Mr. Commissioner, but I have had a chance to read it, and this may result in a repetitious effort, but I note that on one of the last pages of your statement, the next to the last page, you refer again to the fact that of the 10,800 buildings which you manage, only 113 of them have cafeterias.

Let me ask you how many of the other 10,687 buildings might be suitable for vending machines for the blind?

Mr. INNAMORATI. Senator Stafford, we believe that the 514 stands we have now in our buildings are about the proper number to provide these opportunities for the blind. Many of these 10,000 locations, of course, are small leased locations. We believe that any building, any leased building or any government-owned building in which there is no cafeteria, we would have no objections whatever providing the stand or vending machine income to the blind.

GSA has not to my knowledge ever resisted letting the blind into buildings where we do not have cafeterias for the maximum service they can provide the Federal employee and for the maximum benefits they can derive from their operations. We have no objection whatsoever.

The agencies themselves in our buildings sometimes, and on a limited basis I might add, do attempt to share the income from the machines for their employee associations. Some of the agencies testifying today will explain why they need this income. GSA has not taken a strong stand as far as employee organizations go. We say in our building where we have a cafeteria we do not want any interference. We think the income should go to the cafeteria to enable us to provide the basic service.

Senator STAFFORD. On page 2 of your statement you indicate that GSA controls 8.2 percent of all Federal property, but has 52 percent of all blind-operated vending stands on Federal property. Who controls the other 91.8 percent?

Mr. INNAMORATI. The other agencies, the Department of Defense, the Postal Service, the Veterans Administration, and such other agencies across the Nation, sir.

Senator STAFFORD. Thank you very much.

Thank you, Mr. Chairman.

Senator RANDOLPH. Thank you very much, Senator Stafford.

Before you leave the witness chair, Mr. Commissioner, you are the landlord for the largest number of Federal buildings of any agency within our government, is that true?

Mr. INNAMORATI. Yes, sir, that is true—civilian agencies.

Senator RANDOLPH. It is my understanding that you have a special obligation therefore, if we can call it special, to assure that the provisions of the act that we are now seeking to amend are followed to the letter; is that right?

Mr. INNAMORATI. That is correct.

Senator RANDOLPH. Then the act requires that a preference must be given to the establishment of blind vendors on Federal property. That is correct, is it not?

Mr. INNAMORATI. Yes, sir; that is correct.

Senator RANDOLPH. Yet we have received persistent reports—I am

not saying they are documented; I want to be careful; if they are we will spread it on the record as you would want and have those persons come in who are saying it.

I remember just a few weeks ago I was going over to the Senate, and I heard a gentleman telling two ladies who were accompanying him that they were going into the Senate; that each Senator had a chauffeur-driven Cadillac, and I wondered whether I should remain quiet or should I perhaps chat a moment.

I shook hands with him and with the two ladies, and said I hoped he would come out front and see my 1968 Plymouth, two door, that I was driving.

Senator STAFFORD. I was going to say that my 1966 Buick would not even start this morning. [Laughter.]

Senator RANDOLPH. We had a jovial conversation, but as I walked away I did hear him say, "You see what rumor does."

So I am only telling you for the record that these are rather persistent reports that GSA has, let us say, gone around the long way, someone might say skirted, that requirements of the act by restricting the kinds of articles that the blind vendors sell, by permitting the installation of competing—you said they were not competitors—vending machines, and by giving preference to the cafeterias and other nonblind vendor operations.

I am not saying these are charges. I do not want to put it in that language, but these are situations that even though you have addressed yourself to them, should receive comment. Would you do so as you close your testimony?

Mr. INNAMORATI. I would be happy to. This matter is tremendously important to GSA, and I do want to add this. You have been tremendously helpful to the Federal employee. You have also been tremendously helpful to the General Service Administration, and if anything I say here today offends you, I will hear from Mr. Sampson. [Laughter.]

Senator RANDOLPH. I want to stop you. You have not said anything offensive at all. I am delighted to have you. I compliment you on the candor with which you have spoken.

Mr. INNAMORATI. Mr. Chairman, I want to make one thing perfectly clear. If the law is amended as proposed, GSA is going to follow it to the letter. At the present time you gave us an opportunity to analyze just what is the preference and to interpret what preference means, and GSA has interpreted—and with counsel—that preference means provided that the interests of the U.S. Government or the particular agency involved are not adversely affected.

We are using the language of the act. We can do certain things for the blind. As I have mentioned previously, anything that interferes with orderly functions of the Federal Government we believe adversely affects the interests of the U.S. Government. It is for this reason alone we think that nothing should interfere with the provisions of a viable food service in the building where we determine a food service is required.

If there are commercial facilities in the neighborhood of a Federal building, we do not establish a food service facility. We rely on that commercial activity to provide the service. We survey the area whenever a Federal building is proposed for construction to determine the total requirements for the building, including food service.

Where we determine there are inadequate food service facilities available in the neighborhood, we propose to install a facility, and we come before your Public Works Committee, and we specify in a prospectus that we are going to install a cafeteria in the building and get your sanction.

Once it is installed, we believe it is a proper Federal function to manage that facility efficiently. If, in fact, some competing service in the building interferes with the orderly functioning of this established Federal activity, we think it adversely affects the interests of the U.S. Government, and that is the only reason we have interpreted the Randolph-Sheppard legislation in the sense that we have.

Sentaor RANDOLPH. Mr. Commissioner, I have known you for many years, and we have worked together as other members of the committee have worked with you and GSA. I think we are faced with a matter of interpretation. We will have to clarify it, and your testimony this morning is helpful, and we are appreciative of your counsel. Thank you very much.

Mr. INNAMORATI. Thank you very much.

Senator RANDOLPH. General Benade, we are happy to have you. Please identify any of your colleagues if you desire to have them sit at the table with you.

Off the record.

[Discussion off the record.]

Senator RANDOLPH. Will you give your testimony at this time, general?

STATEMENT OF LT. GEN. LEO E. BENADE, DEPUTY ASSISTANT SECRETARY FOR MILITARY PERSONNEL POLICY, DEPARTMENT OF DEFENSE

General BENADE. Thank you, Mr. Chairman.

Mr. Chairman, on behalf of the Department of Defense, I appreciate this opportunity to appear before your subcommittee in connection with S. 2581. The Department of Defense supports wholeheartedly the general purpose of the Randolph-Sheppard Act and the conscientious attempts being made to improve this legislation through the Randolph-Sheppard Act Amendments of 1973.

Initially, the Randolph-Sheppard Act involved little, if any, overlap with other Government-recognized resale facilities. We believe that even today there should be a minimum of duplication in its implementation.

In addressing the proposed amendment, we think it might be helpful to identify the different areas in which the amendment would impact upon the Department of Defense.

The first area affected by the proposed amendment relates to all military installations. At these installations a rather broad range of community activities are provided for our military personnel through the income derived from our military resale activities. A second area pertains to cafeteria facilities that are required in many of our Federal buildings and at some of our military installations to provide a source of meals for Federal employees. The final area relates to those locations where the general public typically has access and where there is a requirement that some type of resale facility be made available where

miscellaneous items of convenience may be obtained either from stands, vending machines or some other type of vendor facility.

The act as it stands now clearly indicates that in this area of interest all efforts should be made to insure that those individuals covered under the Randolph-Sheppard Act are allowed to provide the type of vending facility necessary to meet the needs of the general public, the Federal employees, and the military personnel.

The greatest impact of this proposed amendment would be on the military resale facilities at the military installations. The income derived from the specific group of people served is an expedient means of assisting them in financing their community projects. As an alternative, resale facilities could be individually and collectively operated so that the selling price is matched exactly to the cost price of each item.

In turn, it would be necessary to have a type of local charge on the individuals in order to make available the type of community activities provided in their counterpart local civilian communities through a local tax. Such an arrangement would be cumbersome and inefficient.

On the military installations, we maintain the necessary resale facilities which are primarily required for the service they render. These facilities are only secondarily a vehicle to provide the revenue to support the various community activities. Nevertheless they provide an expedient and practical means of accomplishing this function.

In this particular area, the income from the vending machines make up a significant portion of the total revenues generated by military exchanges in the Department of Defense. The proposed changes to the Randolph-Sheppard Act would reduce this amount by as much as \$20 million each year.

In light of the diminishing appropriated funds being made available for essential well-rounded morale, recreation and welfare programs within the military communities, it is very unlikely that additional appropriated funds would be made available to replace the loss of income from vending machines.

The impact of the dining facility area is of special concern. We believe that in the absence of any definitive legislation which would prohibit the employees in any Federal office building from providing their own dining facilities, they should be free to do so.

The particular mechanics of assessing themselves for the preparation of the food they consume in these dining areas should be flexible enough to allow them, in their attempt to be a nonprofit organization, some latitude in matching the revenues and the costs. We see no advantage in requiring that the exact costs be recouped in each selling price. Nor do we consider that these individuals who are providing for themselves should be restricted with respect to the mechanics of dispensing food in these dining facilities.

Whether it be through a vending machine or across a steam table, it should be a complete transaction if this is their desire. To require them to pay a portion of the funds involved in distributing the costs of their own food would be perceived by them as requiring a specific contribution from them.

Although this contribution is certainly for a worthy purpose, it would not be fair because such a charge is not levied against the general public. We believe an important distinction is the difference

between the intent or the purpose of the food dispensing facility and the mechanical method used by these individuals to provide for themselves, without Government subsidy.

We think that a distinction should be made between (1) those aspects of the Randolph-Sheppard Act which impact on Federal civilian and military personnel in the same manner as they impact on the public in general and (2) those aspects which serve to levy a surcharge on the Government personnel as they carry out what is, in effect, their own program.

Turning now to the specific provisions of S. 2581, we would respectfully suggest for consideration by your subcommittee changes covering the following points:

On direct operation of dining facilities, the amended act would give a priority to blind operation of full food service operations currently operated by agencies or instrumentalities of the Government, such as post and base restaurants and mess halls. We recommend wording that would preclude an implication that the Government is required to contract for these activities when they might better be handled as direct Government operations.

The determination of the extent to which the interests of the United States are adversely affected by the operation of a vending facility must of necessity be made by the head of the concerned department, agency, or instrumentality of the Federal Government. This is recognized in the wording of the proposed amendment. It would seem inappropriate that this determination be reviewed by the head of another department.

We recommend that any limitation on the placement or operation of a vending facility based on a finding that such placement would adversely affect the interests of the United States should be justified by the head of the department, agency, or instrumentality of the Federal Government affected.

On creation of cafeterias, the proposed amendment would considerably expand the activities which the blind would be licensed to operate and implies that the blind might be licensed to operate cafeterias. The operation of full-scale feeding operations would seem to require the additional employment of sighted persons. The addition of cafeterias is, thus, a significant departure from the concept of creating employment opportunities for the blind.

Additionally, the operation and control by the various State licensing agencies of cafeterias, mess halls, and post or base restaurants could be disruptive of basic Federal functions. Although we do not advocate the prohibition of such an operation, a determination of the feasibility of such an operation should rest with the element of the Federal Government concerned. We recommend that the head of the department, agency or instrumentality of the Federal Government concerned be given the necessary discretion in this matter.

The proposed amendment states that no agency of the United States shall own, rent, or lease in whole, or in part, any building unless such building contains a satisfactory site or sites for a vending facility for operation by a blind person, and that buildings being built or substantially altered shall also contain such sites.

This portion of the amendment is sufficiently broad to require every building now owned by the Department of Defense and every building built in the future to be subject to the review and approval of both

the Secretary of Health, Education, and Welfare and a State licensing agency.

If an existing building does not contain a satisfactory site, the bill presents no alternatives other than to divest the Government of the building or to modify the building in order to provide such sites. We have no way of assessing the probable cost of such alternatives, since we cannot predict what criteria would be used by HEW and 50 different State licensing agencies.

A requirement of this type is not only unduly burdensome upon all departments, but further complicates the already difficult process of management by adding two additional approval levels to the process of acquisition of buildings. It could also effectively confound any efforts toward standardization of construction practices by subjecting the departments' designs to a multitude of different and often conflicting State requirements.

We recommend that the requirement applicable to the building and construction criteria be deleted.

Vending machines operated by nonappropriated fund instrumentalities of the Department of Defense currently provide substantial revenues to supplement appropriated funds in support of morale and welfare activities for both military and civilian personnel. These revenues are returned for the support of the specific segment of the population from which they are derived.

As laudable as the goals of the Randolph-Sheppard Act are, it would be inappropriate to insist that a specific segment of our population subsidize another specific group of people, the blind.

A more appropriate approach would be to make available to the blind those revenues generated by sales to the general public. Accordingly, we recommend that the vending machine income provisions apply only with respect to vending machines on Federal property and in areas normally accessible to the general public.

Mr. Chairman, we hope it will be possible to include our recommendations in the proposed amendment so that all individuals affected will be fairly treated, while recognizing the worthy aims of the Randolph-Sheppard Act. We appreciate this opportunity to comment and I will be happy to answer any questions you or the members of the subcommittee may have.

This statement is submitted in lieu of the report requested of the Department of Defense.

Senator STAFFORD. Thank you, General Benade, for a candid statement on behalf of the Department of Defense.

As a personal note, I remember your appearance before the House Armed Services Committee on earlier occasions. I did not believe we would be facing each other on this side on this particular committee, but here we are. I do have some questions for myself and for the chairman of the subcommittee, Senator Randolph.

The GAO report suggests that the Department of Defense and its constituent service branches have not in the past been sensitive to or interested in the blind vendor program. Would you agree that that has generally been the case?

General BENADE. Yes, sir, Senator, I would. Unfortunately there has been very little publicity concerning the blind vendor program.

The efforts on the part of the military services have been sincere enough, although there may be a natural reluctance to discontinue a resale facility in order to provide additional blind vendor sales.

I do not think the military departments, Senator, are insensitive, but I am not very proud of our record, and I think we can do better, and we will.

Senator STAFFORD. That is good. Can you give the committee an estimate of the total annual net income from all the services from non-appropriated fund activities within the United States?

General BENADE. The largest single source of income of nonappropriated funds to the armed services, Senator, are generated from sales by the exchange systems of the military services. There are actually three exchange systems. One is operated jointly by the Army and Air Force and is normally known as the Army-Air Force exchange service, the others by the Navy and the Marine Corps.

The total estimated income from these resale activities is \$66 million. I do not know, Senator, what the income will be from other types of activities such as the restaurants, post cafeterias, and other nonappropriated fund activities. We do not have a central source of available data on which to base an estimate.

As to a breakdown of the estimate by service, the Navy generates about \$25 million; the Army and Air Force exchange, about \$37 million; and the Marine Corps, about \$4 million.

I think a further breakdown would be of interest to the committee. The breakdown for the vending machines income is: For the Navy, about \$6 million; for the Army and Air Force exchange service, \$13 million; and the Marine Corps, about \$1 million.

NEED FOR UNDERSTANDING OF BLIND VENDOR PROGRAM

Senator STAFFORD. Thank you very much, General.

Apart from the adoption of the mandatory legislation it seems advisable to provide post and base commanders some sensitivity training or at least to acquaint them with an understanding of the blind vendor program and the requirements of the law so that they will be more receptive in their dealings with State licensing agencies.

Will you undertake to provide those?

General BENADE. Certainly, Senator, upon the completion of these hearings such guidance as will be issued from this committee will certainly be brought to the attention of each of the military services and the Secretaries of the military departments. I can assure you that we will abide by any legislative requirements emanating from this committee.

Senator STAFFORD. General, although the fault for the inadequacy of the blind vendor program at military installations must be shared, DOD regulations as currently written give local commanders wide latitude in their treatment of the program. In the light of the GAO report, would you recommend that these regulations be changed and, if you would, how?

General BENADE. The GAO report, Senator, as I recall it, covered six military installations, and that of course is a very small sample in terms of the total number of post and stations under the Department of Defense.

We certainly will make the further modifications in the Defense regulations that might be indicated after the opportunity has been provided to the services to review the report in depth and to submit their

recommendations for correction. We will of course place principal emphasis on any outcome of these hearings and further actions by this committee.

DIFFERENT TREATMENT FOR MILITARY

Senator STAFFORD. In your view is there any reason why the military should be treated any differently from other Federal locations with respect to application of the Randolph-Sheppard Act?

General BENADE. Of course, Senator, I cannot speak from personal knowledge of the situation as it exists in the Government departments. It is often human to think that your particular situations are unique—I guess we all think that, even though perhaps they are not.

I do believe, Senator, the military services are distinguishable in many characteristics from the civilian work force. Certainly the procedures that have been followed for many, many years in the military services by way of providing programs particularly for our enlisted personnel, where we have 24-hour-a-day, 7-day-a-week requirement for these members, often serving in places where they have no choice, create a demand on our commanders that has no counterpart with respect to civilian personnel.

I do believe there are some special characteristics that pertain to the Department of Defense. I am sure this committee will take that into account in reaching its conclusions.

Senator STAFFORD. I agree that the morale and welfare of military personnel are extremely important, but do you not agree that at the same time we should allow for substantial increases in the blind vendors at military installations?

General BENADE. Senator, of course typically nonappropriated funds on a military installation are generated by charges made to the military personnel and such civilian personnel as might be authorized to use the facilities. It is a highly distinguishable population, and the profits, if you can call them that, simply represent the difference between what the items cost the Government to sell and the charge to the soldier.

To use an oversimplified illustration perhaps, if an item costs 85 cents and is sold to the soldier for \$1, there is 15 cents in profit. That 15 cents is returned to him in additional athletic equipment, and recreational and morale boosting activities.

I think anything that would seriously reduce the funds available for that purpose, Senator, would be a cause of concern to us. I make no pretense of knowing the fine point at which the recreation program would be unacceptable. Certainly we are openminded on that, but we are desirous that there be no significant change in the kind of support and programs we provide to our soldiers.

Senator RANDOLPH. Based on the GAO report and your own information can you estimate the total number of possible additional blind vending facilities that could be established at military installations?

General BENADE. I wish I could answer that, Senator, but I cannot. To answer that question properly I think would require an intimate knowledge of the actual facilities at each and every one of our posts. I am sorry, sir, I just do not know the answer to that.

Senator STAFFORD. General, I certainly appreciate your candid answers and your statement, and I am sure the rest of the subcommittee and the chairman will. We are very grateful to you for appearing here this morning.

The next witness will be William Eudey, Assistant Postmaster General, Employee Relations.

Mr. Eudey, I welcome you here on behalf of the committee, and you are at liberty to proceed as you wish. You may want to read your statement into the record, and before you do, if that is your wish, would you introduce the other gentlemen who are here with you.

STATEMENT OF WILLIAM EUDEY, ASSISTANT POSTMASTER GENERAL, EMPLOYEE RELATIONS; ACCOMPANIED BY ALVIN GANDAL, PHIL TICE, ALLEN SANDERS, AND HENRY GRONKIEWICZ

Mr. EUDEY. Mr. Chairman and members of the subcommittee, I am William Eudey, Assistant Postmaster General for Employee Relations. I certainly appreciate the opportunity to appear before you today to present the views of the Postal Service on S. 2581.

I have brought with me Alvin Gandal, from our Labor Relations Department; Phil Tice, who is General Manager of our Environmental Services Division; Allen Sanders, Assistant General Counsel, Legislative Division; and Henry Gronkiewicz, Special Assistant to the APMG.

S. 2581 has been proposed as a set of amendments to the Randolph-Sheppard Act intended to perfect and implement the program established by that act. We believe that this legislation sweeps much broader than that.

In particular, as applied to the Postal Service, the proposed changes would subject the Postal Service to a measure of supervision by the executive branch inconsistent with the philosophy of postal reorganization. Since the Postal Service is making sincere and newly reinforced efforts to assure that its Randolph-Sheppard program contributes as much as possible to the employment opportunities of the blind, in our opinion the proposed changes are not justified for Postal Service application.

Section 7 of the bill (proposed new section 7 of the act) would accomplish one of those changes by requiring that all income from vending machines located in work areas be assigned either to blind vendors or to State agencies for the blind. The present statute, 20 U.S.C. 107, requires the transfer of only so much of that vending machine income as is necessary to protect the preference for blind-vendor opportunities, to be made only to the blind vendors themselves.

In effect, the bill would substitute a straight subsidy for the blind, at the expense of Federal and Postal Service employees, for the present philosophy of the act to provide job opportunities for the blind.

To impose such an obligation on postal employees, when not also made applicable to the private sector of the economy, cannot be squared with the determination of the Postal Reorganization Act to structure postal employment along a businesslike model. In that spirit, existing postal practice continues a historical practice of assigning income from workroom vending machines, subject to the requirement for assignment of that income where needed to protect the blind-stand preference, to employee welfare associations for use in specific employee activities.

However admirable the objective of general aid to the handicapped, we believe that profits from vending machines on the workroom floor

are not postal or Federal income, and properly should be shared by the employees who put their money into those machines.

A second marked alteration in the Randolph-Sheppard Act as it presently reads is contemplated by those provisions of the bill that would assign to the Secretary of Health, Education, and Welfare the direct responsibility for enforcing the act.

For example, section 3 (proposed new section 1(b) of the act) would empower the Secretary to prescribe regulations implementing the program and to determine those situations where the placement of blind vending facilities would be inappropriate.

The present act, in contrast, delegates to the individual agency the principal authority for enforcing the program, preserving for the Secretary only the responsibility for consultation and for final approval of agency regulations. The Postal Reorganization Act, 39 United States Code section 410(b) (3), in keeping with the general philosophy of that legislation to free the Postal Service from the control of the executive branch, adopts the Randolph-Sheppard Act, 20 United States Code section 107, as it now stands, with only a limited supervisory role for the Secretary.

To return the Postal Service to substantial outside control in this area would be to chip away at the comprehensive responsibility that the reorganization framers felt necessary to give postal management the ability to run an effective postal program. Such a dilution of postal management control would be aggravated by the changes contemplated by section 8 of the bill (proposed new section 10(8) of the act).

That section would greatly extend the scope of blind-vendor operations, from the "vending stands" of the present law to the potential all-encompassing "vending facility", defined to include "automatic vending machines, snack bars, cart service, shelters, counters," and even cafeterias, where feasibility is determined solely by the Secretary and State licensing agency.

For a labor-intensive organization like the Postal Service, management ability to exercise the basic responsibility for food service and for employee recreation guidance is a necessity to assure the harmonious employee relations required for the success of its mission.

Under the authority granted by present law, the Postal Service is continuing its efforts to provide opportunities for blind and other handicapped persons, both within the Randolph-Sheppard program and otherwise. According to a General Accounting Office report, at the end of fiscal year 1972 better than one quarter of the total blind stands operated on Federal property were to be found at postal sites (B-176886, appendix III). To the extent that report was critical of Postal Service implementation of Randolph-Sheppard, it relied almost exclusively on an internal audit instituted by, and for the use of, the Postal Service.

We, too, have been concerned with insuring that the reorganized Postal Service fully comply with the law in this area. Our audit, as noted and adopted by GAO, made the following findings in reference to the Randolph-Sheppard Act:

- (1) The system for supplementing the income of blind-stand operators from employee welfare revenues was not entirely uniform.
- (2) Local management enforcement of the act and communication with State officials had been inadequate.

As a result of the audit and further investigation and study, the Postal Service has prepared a draft handbook, entitled "Operating Instructions for Food Service and Employee Social and Recreational Funds," a copy of which has been furnished to your committee, and we have circulated the draft to employee representatives for comment and evaluation.

Paragraph 230 of that handbook would introduce the following requirements in response to the findings of the audit dealing with Randolph-Sheppard:

(1) Blind operators receiving an inadequate income would be assigned profits from other vending machines located in the installation as determined jointly by the postal official in charge and the State licensing agency.

(2) The Postal Service would be committed to full cooperation with State agencies, including affirmative action to advise them of opportunities for additional blind vending facilities.

We are fully determined to implement our responsibilities under the Randolph-Sheppard Act and will make every effort necessary to maintain continued compliance. Local performance under the revised instructions, when promulgated, will be monitored and supervised at the headquarters level.

Beyond Randolph-Sheppard, the new handbook would also provide that agreements with Postal Service contractors for cafeteria services include requirements that those contractors make good faith efforts to recruit and train handicapped employees, including, but not limited to, the visually handicapped. That program would be consistent with the current design of Randolph-Sheppard to provide job opportunities rather than subsidies, and with the Postal Service's own program for hiring the handicapped, which has resulted in the appointment of approximately 5,300 handicapped employees since 1970.

The Postal Service is proud of its total record in behalf of employment opportunities for the handicapped. Since we believe that the proposed legislation would significantly alter the program for the blind without substantial justification, we cannot support its enactment.

This concludes my prepared statement. I will be happy to attempt to answer any questions you may have.

Senator STAFFORD. Thank you very much, Mr. Eudey, for your candid statement to this subcommittee. Unless there is objection, the Chair, at this point, intends to place paragraph 230 of the handbook in the record.

[The information referred to and subsequently supplied follows:]

230 *Licensed Blind Operator of Lobby Stand*

Subject to the provisions of the Randolph-Sheppard Act, food service and vending stands shall be established in postal facilities through arrangements with state blind organizations. Every effort shall be made to cooperate with state licensing agencies to implement this program. Whenever possible, postal officials shall bring to the attention of responsible agencies opportunities as they arise for additional vending facilities to be operated by the blind. Section 243.27 of the Postal Service Manual contains instructions relative to steps that must be followed when establishing such stands. Profits from such operations and vending machines operated by a licensed blind operator of a lobby stand in conjunction with his stand shall be assigned to the blind operator. When a blind operator is not receiving an adequate income, action shall be taken to assign the blind operator all or part of the profits from other vending machines in the building, regardless of location. The matter of what constitutes an "adequate in-

come" shall be negotiated annually with the appropriate state licensing agency, but shall not exceed the maximum step of a level 5 employee. Total income of the blind operator, irrespective of source, shall be considered when determining the extent to which he may be eligible for sharing such profits. Assignment of profits to the blind operator from other vending machines shall be determined by the postal official in charge in consultation with the state licensing agency.

STATUTORY AUTHORITY

Senator STAFFORD. Mr. Eudey, postal regulations authorize the installation of vending machines on postal service property for the benefit of employee welfare committees. What Federal statutory authority permits you to promulgate such regulations?

Mr. EUDEY. We have an exchange of correspondence from the Comptroller General indicating that the establishment and use of funds from vending operations on postal property would not be challenged.

Senator STAFFORD. Would you supply that correspondence for the record?

Mr. EUDEY. Yes, sir, I would be happy to do that.

[Information submitted for the record follows:]

[B-112840]

Vending Machines—Operation by Employee Groups and Blind Persons—Disposition of Receipts

Blind persons who are granted permission to operate vending stands on Government-owned or controlled property, under the act of June 20, 1936, and who with the administrative approval of the agency concerned, operate vending machines as part of or in conjunction with the operation of such stands, may retain the proceeds derived from the machines, whether the machines are situated adjacent to the vending stands or located in some other part of the building.

Where contractual arrangements for the installment purchase, installation, and operation of vending machines on Government-owned or controlled property are made by employee groups with administrative approval and with the understanding that any funds received by such groups from the operation of the machines could be retained by the employees for general welfare activities, the General Accounting Office will not object to the continued use of such funds for employee general welfare activities pending the enactment of clarifying legislation, even though the legal authority of administrative officials to agree to such arrangements is doubtful in view of the miscellaneous receipt deposit requirements of section 3617, Revised Statutes.

Comptroller General Warren to the Postmaster General, December 10, 1952:

Reference is made to your letter of November 17, 1952, with enclosure, in which you refer to Office decision of August 29, 1952, B-111086, 32 Comp. Gen. 124, to the Attorney General, relative to the disposition of proceeds derived from the installation and operation of vending machines on Government-owned or controlled property, and request a decision on three questions hereinafter set forth.

You cite the act of June 20, 1936, 49 Stat. 1559, often referred to as the Sheppard-Randolph Act, which authorizes blind persons to operate vending stands in Federal buildings, and state that, in accordance therewith, blind persons operate stands in the lobbies of Government-owned post office buildings under your administration, but that sales thereat have been limited to goods of a "dry" nature under the provisions of section 2 (a) (4) thereof. It is stated further that, recently, the Department approved the installation of soft drink vending machines in both Government-owned and leased premises on an experimental basis; that, in the case of these properties where a blind-operated stand has been functioning, the postmaster has been instructed to determine the location of such machines and to have the operation and servicing thereof under the direction of the operator of the stand, the profits accruing to that person subject

to the regulations of the State Licensing Agency designated by the Office of Vocational Rehabilitation to supervise the operation of such stands; and that, where there is no stand operated by a blind person, postal employees, as a group or through a representative committee, have been permitted, subject to the approval of the postmaster, to handle arrangements for installing and servicing the vending machines, with profits, if any, to be used for general welfare activities and not to accrue to any individual.

It is explained in the letter enclosing a copy of letter from the Secretary of the United National Association of Post Office Clerks that postal employee groups of the Philadelphia, Pennsylvania, Post Office, with approval of the Department, entered into a contract with Muzak Company for the installation of piped-in music to the said Post Office, and that, in addition to a partial payment of approximately \$3,500, a balance of over \$9,000 and monthly operating charges remain to be paid from the proceeds to be derived from the machines. It is also indicated to be your understanding that employee groups at other post offices have entered into contracts for the purchase of vending machines, which contracts contemplate payment therefor on an installment basis from the profits to be derived from the operation thereof.

In view of the above, you request decision as follows:

1. In the event permission is granted to a blind person to operate a vending stand in a building under the administration of the Post Office Department in accordance with the provisions of the Sheppard-Randolph Act, may the proceeds accrue to the operator of the stand?

- a. If the vending machine is immediately adjacent to the vending stand?
- b. If the vending machine is located in some other portion of the building?

2. If there is no stand in the building operated under the provisions of the Sheppard-Randolph Act, may the profits of vending machines in the building be used for general welfare activities of the employees, or must they be deposited into the Treasury as Miscellaneous Receipts?

3. If your answer to question number two (2) is to the effect that said profits must be deposited in the Treasury of the United States, may such action be held in abeyance pending the liquidation of contractual obligations entered into by postal personnel on the assumption that those profits could be used for such purpose?

Section 1 of the act of June 20, 1936, *supra*, provides:

That for the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting blind persons licensed under the provisions of this Act shall be authorized to operate vending stands in any Federal building where, in the discretion of the head of the department or agency in charge of the maintenance of the building, such vending stands may be properly and satisfactorily operated by blind persons.

In view of such language and of the nature and purpose of the statute, if it be administratively determined desirable for blind persons to operate vending machines as a part of, or in conjunction with the operation of, a vending stand, it would appear immaterial whether the vending machines are situated adjacent to a vending stand or

located in some other part of the building. Accordingly, parts a and b of question 1 are answered in the affirmative.

With respect to your second question, it was stated in the referred-to decision of August 29, 1952, that funds derived by the Government from the installation and operation of vending machines on Government-owned or controlled property are funds received "for the use of the United States" within the meaning of that phrase as used in section 3617, Revised Statutes, 31 U. S. C. 484, and, as such, are required to be deposited into the Treasury of the United States as miscellaneous receipts, in the absence of express statutory authority to the contrary. It was therein concluded that the funds so received by the Federal Bureau of Investigation from the installation of vending machines are required to be so deposited.

However, in the matter under consideration it appears that contractual arrangements for the installment purchase, installation, and operation of vending machines at various post offices were made by postal employee groups with administrative approval, and with the understanding that any proceeds received by the employee groups from the operation of the machines could be retained by them. While the legal authority of the administrative officials to have agreed to such an arrangement is doubtful, it has been concluded that this Office will interpose no objection to the continued use of proceeds derived by employee groups from the operation of such machines for employee general welfare activities pending further action in the matter by the Congress in the form of clarifying legislation as recommended in the report of this Office to the Congress, August 10, 1949, B-45101.

In view of the answer to question 2, answer with respect to the third question appears unnecessary.

Senator STAFFORD. I am asking these questions, Mr. Eudey, for the chairman of the committee who is necessarily absent at the moment.

Are you aware of the existence of the 1949 report to the Congress by the Comptroller General, which severely criticized the use of Federal property for such purposes outside the appropriations process under the subsequent 1952 decision of the Comptroller General, requiring that proceeds from vending machines be returned to the Treasury as miscellaneous receipts?

Mr. EUDEY. Yes, sir, I am aware of those items.

They are papers from the Comptroller General. It is in reference to that that there was specific correspondence with the Postmaster General saying that the continued use of those funds would not be challenged by that office.

Senator STAFFORD. Subsequent to an internal audit of the Postal Service, you issued a set of operating instructions for cafeterias and employee welfare committees. Some of your policy determinations are welcome and sensitive to the Randolph-Sheppard program. Certain aspects of these instructions disturb me, however. By what authority do you place a food service officer in charge of blind vending stand operations?

Mr. EUDEY. The responsibility for movement of the mails and managing the activities and working conditions of employees of the operations rests solely with the postmaster at each location. The food service officer is contemplated as the gentleman or lady who would represent the postmaster.

Senator STAFFORD. Even if you had authority to put a food service officer in control of a blind vending stand, how can you arbitrarily set prices on the food that the vendor sells since Federal law establishes him as an independent businessman?

Mr. EUDEY. The general feeling that we have in this is that the prices set within any Postal Service facility should be generally those commonly charged in the community, and we do not wish to run the risk of having any food service operations or vending operations which would either substantially be overpriced or underpriced on the local market.

To that extent we thought there should be some pricing control by the food service officer.

Senator STAFFORD. What is the pay rate for a maximum step level of a 5 employee?

Mr. TICE. It ranges between \$9,900 and almost \$12,000. In just a minute I will give it to you very precisely.

Mr. EUDEY. In the interest of time, it is approximately \$12,000. If you want a concise figure, we will continue to look for it.

Senator STAFFORD. Why not supply it for the record.

How does the Postal Service arrive at this figure, that is the maximum step, level 5, as being adequate income for a blind vendor?

Mr. EUDEY. In our field service operations more than 70 percent of the employees in the Postal Service are at a single job level which is called Postal Service level 5. The level that we are establishing here then is by far and away the majority rate paid to all Postal Service employees.

It is the rate most commonly paid to letter carriers and most postal clerks.

The range, incidentally, is from \$9,334 to \$11,919 per annum.

Senator STAFFORD. One of the duties of the food service officer is to insure employee social and recreational facilities receive profits from vending operations in work areas. How do you reconcile this with your statement of policy section 230 which indicates in part when a blind operator is not receiving an adequate income action shall be taken to assign the blind operator all or part of the profits from other vending machines in the building regardless of location?

Mr. EUDEY. If there is any conflict in those it would be resolved in favor of the assistance program to the blind operator. That would take precedence over the further use of the remaining funds.

AVERAGE PAY OF POSTAL EMPLOYEES

Senator STAFFORD. What is the average pay of all Postal employees?

Mr. EUDEY. I did not come prepared with that number. I will have to supply that for you, sir, if you want an accurate figure.

Senator STAFFORD. All right, that will be satisfactory.

[The information referred to follows:]

The average straight time annual pay of all Postal employees as of June 30, 1973 was \$10,697. It is now some \$700 higher as a result of a new labor agreement, or about \$11,400.

Senator STAFFORD. What would be the average pay for a Postal employee with skills and knowledge comparable to those of a licensed blind vendor? Once again, you may want to supply that for the record.

Mr. EUDEY. It would be extremely difficult I think where we have a negotiated rate structure to simply guess what might be the rate that would be negotiated for a blind vendor. I simply have no way of relating that job to any Postal Service job that I know of.

POSTAL EMPLOYEE FRINGE BENEFITS

Senator STAFFORD. Would you outline the fringe benefits available to Postal Service employees, Mr. Eudey?

Mr. EUDEY. The Postal Service employees, again, we would have to make some presumptions on fringe benefits. I think we will say are covered on a joint contribution basis for health and accident insurance for themselves and their families, on a similar basis for basic life insurance and the standard Federal service sick and annual leave provisions.

I think those are the major benefits.

POSTAL POLICY REGARDING WORK AREAS

Senator STAFFORD. It is the committee's understanding that it has been Postal Service policy for some time to keep blind vendors out of work areas. This policy is reflected in your tentative operating instructions. This limitation, as I understand it, is based on safety considerations.

Would you provide the specific reasons the Postal Service considers work areas unsafe for blind vendors?

Mr. EUDEY. There has been a general prohibition against having the blind vendors on the workroom floor. There is not an absolute prohibition; it depends upon the particular location.

For example, we have a good many industrially blind working in the Postal Services on the floor, so it is not a total thing.

As a general working rule we have said that the work on the floor is inappropriate for reasons of safety and security, that is, that we cannot permit the public on the work floor. I am not including the blind vendor; nor do we permit generally free access between the workroom floor and public areas. So we do tend to build a wall between the workroom floor and the public areas of the Postal Service.

In those specified locations where it has been found appropriate for a blind vendor to be within the workroom floor area, but where there was no significant hazard to his safety by having him there, we do have some special cases. As a general rule the answer is, "No."

In specific cases there have been blind vendors permitted on the workroom floor.

Senator STAFFORD. The GAO report states there are blind vendors now operating in some post office work areas; apparently some regional postal officials have been convinced that this is feasible. What is your reaction beyond what you have just said, if you have any?

Mr. EUDEY. We do not believe in a total prohibition. As a general rule it is the easiest rule to establish, again allowing for exceptions

NUMBER OF BLIND VENDING STANDS IN POSTAL FACILITIES

as appropriate.

Senator STAFFORD. Would you give the committee the total number of postal facilities in the country which have blind vending stands? How many facilities have more than one such stand and how many facilities do not now have blind vending stands but which could support one more?

Mr. EUDEY. We have currently as of yesterday's count 234 blind stands presumably in 234 locations. We have a problem with locations in that we consider a post office to include its stations and branches.

If I may expand here a little bit, we have, despite our 36,000 or so locations in the Postal Service, only 358 post offices that have 200 or more employees including the rural carriers who hardly come in there at all and including the branches, and the stations outside.

The number of employees does not determine the opportunity for a lobby stand operator to make a fair income. The volume of activity in the lobby area would, but it would not seem reasonable to me that in the post office with a total population of less than 200 employees including the outlying branches and stations, that the window service area would justify having a blind stand vendor there.

So again, as a rough sort of measurement, maybe 358 would be our total potential of those which could support a blind vendor operation if in fact the public had reasonable access.

NEW POSTAL FACILITIES

Senator STAFFORD. The field reports have indicated that some blind vendors have lost their employment when an old post office facility is closed and a new one opened. This has resulted from the postmaster's edict that the blind vendor can operate in the new facility but he must not sell certain food items. Unable to make a living with such restrictions, the blind vendor rejects the new permit.

How do you view this problem and how can it be overcome?

Mr. EUDEY. If in a particular case the postmaster has made a statement that he was controlling some historically appropriate items for sale, this is certainly something we would like to correct. The fact

really is that in the movement of our post offices what we are trying to do is improve the service to the public through a decentralization of the window service activities and generally a smaller lobby area.

At the same time we tend to centralize our work areas so we wind up with fewer workroom floor areas but larger, and more but smaller lobby areas, and I think this will be a loss of opportunity.

Senator STAFFORD. Thank you, Mr. Eudey.

Without objection the chair is going to make paragraph 3 of the foreword to the operating instructions for food service employee social and recreational funds a part of the committee's record of these hearings.

[The information referred to follows:]

FOREWORD

In support of this general policy, these instructions are based on the following operation principles :

* * * * * *

3. Central lunch room facilities shall be operated on a break-even basis in order to provide employees with food at the lowest possible cost. Profits derived from vending in work areas will accrue to the benefit of the employee social and recreational fund. This fund will be administered by an employee social and recreational committee.

* * * * * *

Senator STAFFORD. On behalf of the chairman and for myself and the other members of the subcommittee, I want to express my appreciation to you and to your colleagues for coming up here and appearing before us this morning. Thank you very much.

The next witness before the committee will be Mr. Milton Perry, president, D.C. Stand Operators and George Reed, vice president of the same organization; Arthur Segal, treasurer, Randolph-Sheppard Vendors of America; Irvin Schloss, Washington representative, American Foundation for the Blind; Durward McDaniel, national representative, American Council of the Blind; John Taylor, National Federation of the Blind and Karen Perzentka.

If you will be seated, gentleman and Mrs. Perzentka, let me welcome you here on behalf of the Subcommittee on the Handicapped. We have before us statements by some of you, and the chair will be delighted to proceed in whatever order you wish.

We have a statement of Mr. Schloss; we have a statement of Mr. McDaniel, and a statement from Mr. John Taylor. So the chair is prepared for you to proceed in whichever order you wish to utilize.

STATEMENT OF MILTON PERRY, PRESIDENT, DISTRICT OF COLUMBIA STAND OPERATORS; ARTHUR SEGAL, TREASURER, RANDOLPH-SHEPPARD VENDORS OF AMERICA; IRVIN SCHLOSS, WASHINGTON REPRESENTATIVE, AMERICAN FOUNDATION FOR THE BLIND; DURWARD McDANIEL, NATIONAL REPRESENTATIVE, AMERICAN COUNCIL OF THE BLIND; JOHN TAYLOR, NATIONAL FEDERATION OF THE BLIND; GEORGE REED, VICE PRESIDENT, DISTRICT OF COLUMBIA STAND OPERATORS; AND KAREN PERZENTKA, SECRETARY, RANDOLPH-SHEPPARD VENDORS OF AMERICA, AND STAND OPERATOR, MADISON, WIS., A PANEL

Mr. SCHLOSS. If I may, Mr. Chairman, suppose I lead off.

Senator STAFFORD. I think that would be fine.

Mr. SCHLOSS. My name is Irvin P. Schloss, and I am the Washington representative of the American Foundation for the Blind. I have submitted a statement which I would appreciate having included in the record of the hearings, and I will be glad to summarize it briefly so our colleagues, here at the table, may also speak.

Senator STAFFORD. Without objection, Mr. Schloss, your full statement will appear in the record at the conclusion of testimony.

Mr. SCHLOSS. May I say, in addition to representing the American Foundation for the Blind, I am also speaking for the American Association of Workers for the Blind and Blind Veterans Association. All three of these national organizations endorse enactment of S. 2581 with a few amendments which are really in the nature of reinforcements to reinforce the intent of the bill.

The bill would greatly improve and expand employment opportunities for blind persons under the Randolph-Sheppard Act in several ways. One is by defining a vending facility to include various types of concessions. Since the assignment of vending machine income to other than blind stand operators has adversely affected these operators in some instances, S. 2581 tightens the procedure for making this assignment in order to expand employment opportunities for blind persons in all aspects of servicing automated vending machines.

Also, the bill provides for strengthening of the administrative appeals mechanisms by establishing two types of arbitration procedures for deciding on grievances between individual stand operators and State licensing agencies as well as grievances between State licensing agencies and Federal agencies controlling the property.

In addition, there are a number of important provisions, which in effect, update the current Randolph-Sheppard Act in the light of actual practices.

Another important feature of the bill: We believe that its enactment should also resolve some of the problems created as a result of the minority business enterprise program. Although items carried by minority businesses on Federal property are not supposed to compete with Randolph-Sheppard vending facilities already in those buildings, they have in fact, on occasion, done so. And on other occasions, while locations for vending facilities operated by blind persons have been turned down by the agencies controlling the Federal property, minority business enterprise activities have been established on that property in the same location.

Among the amendments that we are suggesting would be eliminating the word "binding" in the proposed section 3(6) of the act so as not to preclude the possibility of judicial review and prohibition against the third member of either of the two arbitration panels provided for in the legislation from being either Federal or State employees.

We would also suggest authorizing the Secretary of HEW to reserve a portion of vending machine income accruing to each State licensing agency for use in financing the cost of the two arbitration procedures.

I have outlined other amendments in my written statement and let me add just one more. That would be assurance of maximum feasible consultation by State licensing agencies with vending facility operators in those States on issues which may affect their welfare.

In conclusion, Mr. Chairman, I might say that the need for improving and extending employment opportunities for blind persons under the Randolph-Sheppard Act is increasingly pressing. There are now some 650 blinded veterans of the Vietnam era whose blindness is a result of their service and another 6,000 blinded persons who will be graduating from high schools in the years immediately ahead. From both of these groups we can expect that some will have both the qualifications and the interest in seeking employment as vending facility operators on Federal properties as authorized by this legislation.

We therefore would commend to the subcommittee, the full committee, and the Senate, favorable action on S. 2581 as a means of extending those employment opportunities so that a substantial greater number of blind persons will be given an opportunity for satisfying gainful employment, so that they will become, in fact, taxpayers instead of tax consumers.

That is the extent of my summary of this point, Mr. Chairman.

Senator STAFFORD. Thank you very much, Mr. Schloss.

[The prepared statement of Mr. Schloss follows:]

AMERICAN FOUNDATION FOR THE BLIND, INC.

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November 19, 1973

STATEMENT OF IRVIN P. SCHLOSS, COORDINATOR OF
GOVERNMENTAL RELATIONS, AMERICAN FOUNDATION
FOR THE BLIND, TO THE SUBCOMMITTEE ON THE
HANDICAPPED, COMMITTEE ON LABOR AND PUBLIC
WELFARE, UNITED STATES SENATE ON S.2581.

Mr. Chairman and members of the Subcommittee, I am pleased to have this opportunity to testify on S.2581, the Randolph-Sheppard Act Amendments of 1973, a bill of vital importance to blind persons.

Today, I am representing three national organizations in endorsing the bill you are considering. They are: the American Association of Workers for the Blind, the national professional association in our field; the American Foundation for the Blind, the national voluntary research and consultant organization on services to blind persons; and the Blinded Veterans Association, the Congressionally-chartered membership organization of the nation's war-blinded. These three organizations endorse enactment of S.2581 with amendments we believe will strengthen its provisions.

The Randolph-Sheppard Vending Stand Act for the Blind was

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a landmark in Federal legislation designed to provide employment opportunities for blind persons. Since its enactment in 1936, thousands of blind persons have had regular employment as vending stand operators in Federal buildings throughout the country. As a result, these individuals have been taxpaying citizens instead of tax consumers forced to subsist on welfare payments.

Additional thousands of blind persons over the years have been employed in concession stands in state and municipal buildings, as well as in nongovernmental buildings. Thus, even before the 1943 amendments to the Vocational Rehabilitation Act increased the effectiveness of the Federal-State vocational rehabilitation program in assisting blind and other handicapped individuals to become gainfully employed, self-supporting citizens, the pioneering Randolph-Sheppard Vending Stand Act showed the way by restoring blind persons to useful and productive lives.

In addition to the direct benefits of such employment to the individual stand operators, their families, their communities, and the nation, the demonstration value to the public of the capability of blind persons has been considerable. Vast numbers of government employees and visitors to government buildings throughout the country have had stereotyped misconceptions about helpless blind people dramatically altered as a result of seeing blind vending stand operators dispensing merchandise, handling money, arranging displays -- running a business. It would be difficult to accurately assess the long-range impact of this

demonstration in terms of improved acceptance of blind persons on their individual merits in all types of occupations.

It should also be pointed out that vending stands operated by blind persons in government buildings provide a necessary service to the government employees who work in those buildings and to people who visit them. If the Randolph-Sheppard Vending Stand Act did not exist, there would still be similar concessions in government buildings because there is a genuine need for them. But they would be operated by nonhandicapped persons; and the great value of this program for blind persons whose opportunities for gainful employment are much more limited, would have been lost.

At the end of fiscal 1973, there were 3,601 licensed blind operators employed in 3,307 vending stands throughout the country. During fiscal 1973, these concessions operated by blind persons did a gross business of \$119,302,267. The average income of the blind operators was \$7,452.

Since its enactment in 1936, the Randolph-Sheppard Vending Stand Act has been amended only once -- in 1954 in order to bring its provisions up-to-date in the light of the then current practices in the program. Developments in the intervening years indicate the need for additional updating at this time. S.2581 provides for these needed changes.

The bill would change the term "vending stand" to "vending facility" to more accurately cover the wide variety of concessions operated on Federal property by blind persons. It also defines a vending facility to include various types of concessions

including vending machines. Since the assignment of vending machine income to other than the blind stand operators has adversely affected these operators in some instances, S.2581 tightens the procedure for making this assignment in order to expand employment opportunities for blind persons in all aspects of servicing automated vending machines.

The bill would give the state licensing agency desirable discretionary authority to license as operators responsible and capable blind men and women who are under 21.

The bill would also authorize the state licensing agency to permit food, beverages, and other items to be prepared on the premises. This is, in fact, presently being done in many locations; and the proposed provision merely updates the existing law.

The bill would also eliminate the one-year residence requirement as a prerequisite for licensing of blind concessionaires. This type of durational residence requirement was eliminated from the Vocational Rehabilitation Act some years ago, and it is being eliminated from other Federally-assisted programs as a result of legislative and court action.

An important new provision is the requirement for inclusion of sites for vending facility locations in the design, construction, or substantial alteration of Federal buildings or those leased by Federal agencies. Enactment of this provision will help to assure growth of employment opportunities for blind persons while providing a valuable service to employees and the public. The requirement for consultation between

officials of the agency controlling property, the Department of Health, Education, and Welfare, and the state licensing agency will insure installation of the proper facility if one is justified on the basis of potential business.

S.2581 also provides for several appeal mechanisms designed to facilitate settlement of grievances. The fair hearing mechanism for aggrieved licensed operators under the present law is expanded to include an arbitration procedure if there is a dispute which cannot be settled otherwise. There is also provision for arbitration of disputes between agencies controlling Federal property and state licensing agencies. In addition, a state licensing agency or a blind person is authorized to seek judicial review of any agency action if they are adversely affected by that action.

At this point, Mr. Chairman, I should like to express our concern about the possible effect on Randolph-Sheppard vending facilities of the Minority Business Enterprise Program established by Executive Order 11458. As you know, this program is designed to assist minority group members to establish business concessions of various types on Federal property. This is certainly a worthwhile and desirable program; but despite disclaimers of Federal officials that minority business concessions will not compete with vending facilities operated by blind persons, some already are doing so and there is even greater potential for competition by virtue of the fact that officials controlling Federal property can presently restrict what can be sold in a vending facility under the Randolph-Sheppard program.

We believe that enactment of S.2581 and proper enforcement of the priority granted blind persons under the Randolph-Sheppard Act can prevent unfair and unnecessary competition. We should like to point out that the Randolph-Sheppard Act itself is a prototype minority business enterprise program which currently provides employment for blind minority group members and has the potential of increasing employment opportunities for such individuals with enactment of the bill you are considering and enthusiastic rather than reluctant administration of the program.

The amendments to S.2581 we would like to suggest for consideration by this Committee are primarily designed to reinforce the intent of the bill. They are as follows:

1. Strike the word "binding" in the phrase "binding arbitration" in proposed Section 3(6) of the Act, so as not to preclude judicial review following arbitration procedures;

2. Include language in provisions describing the make-up of the two arbitration panels specifying that the third panel member elected by the two principal representatives, or by the Secretary of Health, Education, and Welfare, may not be an employee or officer of the Federal government or of any State government;

3. Authorize Secretary of HEW to reserve a portion of vending machine income accruing to each state licensing agency for use in financing the cost of the two arbitration procedures.

4. Include language specifying that operators be given detailed information about the cost to them of fringe benefits as well as the value of the benefits prior to any referendum in which they may elect to authorize the use of set-aside funds to

pay for these benefits;

5. Assure that a portion of vending machine income accruing to each State agency be used to finance these fringe benefits;

6. Authorize the use of vending machine income accruing to the state licensing agency to compensate organizations or companies for depreciable life of vending machines, rather than authorizing compensation by the Secretary of the Treasury as in the new Section 7(d) of the Act;

7. Include provisions requiring financial reports to blind vending facility operators by state licensing agencies as well as maximum feasible consultation with representatives of vending facility operators on program matters affecting their welfare.

In effect, Mr. Chairman, S.2581 would make urgently needed improvements in the Randolph-Sheppard Act for the blind. It would expand employment opportunities for additional numbers of blind persons, prevent curtailment of the program, update existing provisions in the light of current practices, and provide equitable procedures for adjudicating any disputes which might arise. Increased employment opportunities for blind persons, which S.2581 would make possible, are particularly significant at this time since we now have some 650 blinded veterans of the Viet Nam Era and a large group of 6,000 blind young people who will be graduating from high school and seeking employment in the years immediately ahead. Many of these individuals will have the ability and the desire to become operators of vending facilities under the program.

Enactment of S.2581 will assure continuation of the Randolph-Sheppard program as a landmark demonstration of the capability of blind persons. We respectfully urge favorable action by the Committee on Labor and Public Welfare and the Senate on S.2581 with the amendments we are suggesting in order for the improvements it makes to become effective as soon as practicable.

Senator STAFFORD. Who of your colleagues would care to come next?

Mr. TAYLOR. Senator Stafford, my name is John Taylor, and I appear for the National Federation of the Blind, which is a nationwide organization of blind persons.

Rather than read our prepared statement, let me very briefly summarize our position with respect to the amendments contained in S. 2581.

We support, generally, the provisions in the bill. We feel that the bill would make a major contribution to development, expansion of the vending stand programs for the blind, both as it operates on Federal property and on other property.

Our principal concern here is with its impact on development of the program on Federal property.

There are a number of major issues that confront us today in development of the vending stand program for the blind. This bill makes major contributions toward resolution of many of the problems and difficulties by expanding the definition of a vending stand, of the articles to be sold, for example.

It holds the promise of substantially expanding the program and providing hundreds, even thousands of new vending facilities and new jobs for blind persons who do not now have them.

A major concern which we find with the program, as it operates today, is with the levy of set-aside funds as authorized under the act. Approximately one-third of the agencies levy no set-aside funds. The remainder levy a highly variable percentage.

In some instances the set-aside percentages levied by State licensing agencies are so high as to be stifling and to be virtually confiscatory.

If, as the bill proposes, a fifth use of set-aside funds should be authorized, it likely would result in even more increased percentages taken from the earnings of vending stands and vending stand operators without commensurate benefits to those operators.

The set-aside percentages, as they operate today, are so high and so variable in some States, that it would be difficult, without stifling initiative, to further increase those percentages.

We urge that the committee seriously consider establishing a procedure for the gradual reduction of the set-aside percentages where they exist, and that this especially be done for those State licensing agencies which levy such high percentages.

Our organization has been involved, and is involved currently, in litigation having to do with establishing the rights of blind vending facility managers to a greater voice in the operation of the vending stand program.

We sponsored, in conjunction with our Florida affiliates, litigation to terminate a program which was requiring vending facility managers in one part of that State who were being required to contribute a significant portion of their income to a Federal employee association.

Through action in the courts we were able to terminate that program. We are currently involved in Ohio in an effort through the courts to terminate alleged abuses in the operation and administration of a portion of that State's program by a nominee agency.

We are concerned with respect to the proposed fifth use of set-aside funds—and we strongly urge that if such a provision is adopted that two additional steps be taken—one is that a procedure be developed or

language added to the bill, or the committee report, which would result in a reduction of the use of set-aside funds for other purposes, so that there would not be a net increase in the levy taken from the proceeds of vending stands.

Second, we believe that a long-term effort is needed to reduce the use of set-aside funds, generally, so that a greater amount of the earnings from vending stands can be enjoyed by the blind persons who do the work involved in their day-to-day operations.

We strongly support the arbitration procedures which would resolve disputes between blind persons and State licensing agencies and disputes or disagreements between State licensing agencies and Federal departments, agencies, and instrumentalities.

The efforts of this committee some years ago resulted in the establishment by various Federal departments and agencies of appeals procedures to resolve disputes between the State licensing agencies and themselves, but in those procedures the Federal department sits both as judge and jury. We believe, therefore, that an arbitration procedure of the type proposed in the bill has far greater promise of strengthening the program and making available to the Congress and the general public information regarding its operation and administration.

With respect to the need for personnel to administer and develop an expanded program, we are concerned that personnel so employed be imbued with a philosophy toward blindness which would result in a positive attitude and a dramatic expansion of the program.

One of the factors which cripples the program today, and has for a number of years, is the attitude of many administrators of Federal departments and agencies which tend to regard blindness as a terrible tragedy from which there can be no recovery, rather than a visual loss which, with the right kind of training and opportunity, need not prevent competitive performance in a wide range of occupations and professions, including especially, operation and management of vending facilities on Federal property.

The major problem here is that our beliefs tend to be self-fulfilling. If we expect very little of blind persons, we tend to plan a program which will achieve very little in terms of their utilization and effectiveness as vending facility operators.

On the other hand, if we believe firmly in the capabilities of blind persons and provide adequate training opportunities which stimulate and encourage the development of their best skills, we can have a program which is far different from the one that exists on Federal property today.

The underlying philosophy of most Federal department, agency, and instrumentality heads is that the only products which a blind person can sell are such items as magazines, tobacco products, candy bars and sundries, items which are placed in packages or containers prior to receipt by the vending stand.

One Federal department, for example, has published rules governing the vending stand program to its employees which stipulates with respect to hot coffee and hot chocolate that a blind person may not make them, may not serve them, and may not handle the utensils used in connection therewith.

Such a rule is contrary to the principle and thrust of the Randolph-Sheppard program. Moreover, it stands as a traditional rather than a modern concept of what blind persons can do.

It stifles, cripples, demoralizes the program. It is unfortunate that rules such as these are published by our Federal Government and applied to limit and restrict opportunities available for blind persons.

In the final analysis, the vending stand program for the blind has on Federal property failed to grow. The statistical data available make that crystal clear. The growth in the program which is occurring is occurring on non-Federal public property and in the private sector where the restrictive attitudes of Federal department and agency heads are not involved and do not come into play as a means of crippling and stifling the program.

What we need in the vending stand program for the blind is the key provisions included in S. 2581, and what we need is a far more effective administration of those programs both from a departmental level and from the point of view of strong congressional oversight in order to assure that Federal departments and agencies will develop to the fullest extent practicable the program and the opportunities which the amendments in this bill would make possible.

We foresee if the basic amendments in this bill become Federal law the employment of thousands of additional blind persons and the establishment of thousands of additional vending facilities.

One final comment with respect to the assignment of vending machine income to blind vending facility operators, which we strongly support; this provision would in addition provide increased income to blind vending facility operators, remove a major vested interest which now stands in the way of development of the program.

The amount of money involved for even Federal employees who may serve on the committee or be a member of the employee association is insignificant. It is a welfare or recreational benefit. The amount of that money when pooled and translated in the jobs and opportunities for a blind person is a major national significance and concern.

I believe it is important to note here that we are not dealing with the mere question of assignment of that income to blind vending facility operators. If we have access to the income, the next step will be that blind persons will be operating and managing those vending machines, not just deriving the income from them. That is that this provision will be translated into jobs, substantial numbers of jobs, not just an additional income to the vending facility managers who are involved on the Federal property concerned.

I have a statement for the record, and I would appreciate if it was included, and I, like any of the rest of us, will be pleased to answer any questions which the committee may have for us.

Senator RANDOLPH. We thank you, Mr. Taylor, for your statement, and it will be included as you prepared it, and your comments of course are helpful, based on the detailed testimony that you are setting forth.

[The prepared statement of Mr. Taylor follows:]

NATIONAL FEDERATION OF THE BLIND STATEMENT REGARDING S-2581
PRESENTED FOR THE SUB-COMMITTEE ON THE HANDICAPPED, UNITED STATES SENATE

Mr. Chairman and Members of the Sub-Committee: My name is John Taylor, and I appear today to present the views and concerns of the National Federation of the Blind, a nationwide organization of blind men and women. The National Federation is composed of blind persons from all walks of life. It is made up of local community chapters which are, in turn, united into statewide organizations of the blind. These statewide organizations are united in the National Federation of the Blind. We have been in existence since 1940, and we have a strong consumer orientation. Our organization frequently has been on the cutting edge of change with respect to programs, services, attitudes, and opportunities related to blindness. In addition to our widespread educational programs designed to acquaint the general public with new concepts regarding blindness, we have for many years worked in conjunction with our affiliates to secure the rights and establish new opportunities for blind persons through judicial processes. Significant amounts of our resources are applied regularly toward these efforts and with very substantial success.

In Florida our efforts were successful in terminating a program to require vending stand operators to contribute a significant portion of their income to a Federal employee association. Litigation is in process now in Ohio to correct abuses in the administration of a portion of that state's vending program by a nominee agency. In a variety of other instances through local affiliates, we have assisted the judicial process and participated in other hearings to establish and clarify the rights of blind vending stand operators who were aggrieved by actions of a State licensing agency or a Federal department or agency.

Mr. Chairman, the National Federation of the Blind supported the Randolph-Sheppard amendments contained in S-2461, and again we supported the amendments to the Act represented in S-2506. It is with appreciation and hope that we appear here today in support of S-2581, "A Bill to amend the Randolph-Sheppard Act for the blind to provide for a strengthening of the program authorized thereunder, and for other purposes." In 1956, the twentieth anniversary of the Randolph-Sheppard Act, our organization presented its Distinguished Service Award to the Honorable Jennings Randolph in recognition of the major contributions made by that Act to the enhancement of employment opportunities for the

blind. Although the Randolph-Sheppard Act has provided a major source of improvement and self-sufficiency for blind men and women, its purpose and intent have been eroded by Federal departments and agencies who have seen blindness as a terrible tragedy from which there can be no recovery, rather than as a visual loss which, with the right kind of training and opportunity, need not prevent competitive performance in a wide range of occupations and professions. Federal departments and agencies have gone so far as to say with regard to hot coffee and hot chocolate that blind persons may not make the, may not serve them, and may not handle the utensils used in connection therewith. To a gradually increased extent, the Randolph-Sheppard vending stand program for the blind on Federal property has been curtailed by bureaucratic attitudes toward blindness rather than by any characteristics inherent in blindness itself. The philosophy and thrust of S-2581 represent an important and positive step forward rather than a continuation of the doubt, diminution, and defeatism which characterize so many of the attitudes prevailing today.

In addition to the detrimental attitudes toward blindness which all too frequently find expression in the rules, regulations and policies of Federal departments and agencies, blind operators of vending stands are also confronted with an erosion of the program which provides hope and opportunity by a General Services Administration which proposes regulations to reduce the kinds of articles they can sell in Government buildings. They find competition from Federal employee welfare and recreation associations which operate their own vending machines. They find other department and agency heads who are unwilling to consider blind vendor sites at their installations. They find the implementation of an Executive order which results in the placement of a minority business enterprise in competition with a blind vendor on the same Federal property.

Mr. Chairman, the Randolph-Sheppard Act has been on the statute books now for more than 37 years. It was last amended in 1954, and the time is at hand for the Act to be updated, strengthened, expanded, and given a stronger positive thrust. S-2581 seeks to accomplish these objectives.

Since statistical and other data regarding the program under the Randolph-Sheppard Act are readily available for the record from other sources, I shall not include that information here. Suffice it to say that the Randolph-Sheppard Act for the blind as it operates on Federal property has ceased to be creative, to grow, and to hold the hope it once promised. The growth which is occurring

in the vending stand program under the Act is occurring on non-Federal public property and in the private sector where the restrictive philosophy of the Federal departments does not stifle opportunity and hope.

If enacted, S-2581 will establish a priority for blind persons to operate vending facilities on Federal property; it expands the definition of a vending stand, as well as the articles to be sold. These three changes hold promise of program growth and the opportunity for hundreds of new jobs. The assignment to blind vending facility operators of income from vending machines on Federal property represents another major opportunity to expand the program and dramatically increase employment among blind persons. Moreover, adoption of this provision will result in removal of a major vested interest in stifling the program.

Section 3(2) of the Bill will contribute materially to expansion of the program by requiring publication in the Federal Register of the reason for disapproval of vending facility permits when the basis for the denial is that approval would "adversely affect the interests of the United States." The public disclosure provision in this paragraph is critical to changing current administrative practice.

The use of "set-aside" funds authorized under the Act has long been a source of major concern to blind persons. In some states, the set-aside percentages are so high that they stifle initiative and are virtually confiscatory. Among the states there exists wide disparity in the assessment of set-aside charges and in the use of set-aside monies. Section 5(3)b of the Bill makes provision for a fifth use of set-aside funds for "retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of operators licensed by such State agency that funds under this paragraph shall be set aside for such purposes." If this provision were adopted without other changes in the use of set-aside funds, it would seriously cripple the program by further curtailing the earnings of operators without commensurate benefits to them. It should be noted here that money for the purposes indicated would be coming from the vending stand operators themselves. In the case of payment of social security retirement, for example, it would result in substantially increased payments for blind operators without any increased in benefits. A major issue in the vending stand program today is the extent to which funds are already being set aside from the proceeds of vending stand operations. It is essential that excessive double taxation be at least

curtailed.

Section 7 of the Bill before you today provides for a badly-needed arbitration procedure to resolve disputes between vending facility managers and State licensing agencies and between State licensing agencies and Federal departments, agencies and instrumentalities. The fair hearings currently in operation within State licensing agencies are vague, often unknown, and lack both accessibility and visibility. Blind vending facility managers have little faith in these hearing procedures as they are presently constituted. Although the efforts of this Committee resulted several years ago in the establishment of appeals machinery by most Federal departments and agencies to resolve disputes between State licensing agencies and themselves, these procedures made the Federal department or agency both judge and jury. The arbitration provision contained in Section 7 represents a major step toward strengthening the program, as well as public disclosure of facts regarding its operation and administration.

We concur with the spirit embodied in Section 9 of the Bill regarding the need for personnel to strengthen and expand the vending facility program. It is important to note here that the mere addition of personnel will not fully achieve the desired goals. The new personnel must be personally imbued with a positive attitude toward blindness and thoroughly knowledgeable regarding the specialized skills and techniques utilized by blind persons to do without sight a wide range of tasks for which sight is used by those who possess it.

The vending facility program for the blind, properly developed, not only affords a major area of employment; it also represents an affirmative action program on the part of Government and one which demonstrates daily the wide range of competence possessed by our nation's blind citizens.

In summary, the issue before this Sub-Committee, the Congress, the American people, the Executive branch of government, and Federal employee groups and associations, is jobs for blind people who do not now have them. The issue is hundreds, even thousands, of jobs for blind people who need them and want them, and can, with training, discharge the duties which they entail. Although substantial amounts of money are presently being diverted from activities which could be employing blind persons, the amount so diverted is not consequential in the life of each member of an employee committee or association.

The gains, the opportunities which can result from passage of S-2531 are

substantial and sorely needed. The goal of thousands of additional vending stands and thousands more blind people employed is before us. We believe achievement of this goal overrides any other peripheral questions raised against strengthening and expanding the Randolph-Sheppard vending facility program for the blind.

Finally, it is apparent from years of experience that Federal departments and agencies lack sufficient imagination to stimulate and encourage development of a truly creative vending facility program. Strong departmental and especially Congressional oversight will be needed to accomplish the objectives which the Bill seeks to achieve.

Senator RANDOLPH. Mr. Segal.

Mr. SEGAL. For the record I am Arthur Segal, treasurer of the Randolph-Sheppard Vendors of America.

I am from Philadelphia, Pa., where I run a snackbar in one of the lobbies of city hall. Also with me today is Karen Perzentka who is the secretary of the Randolph-Sheppard Vendors of America, and she operates a snackbar in the State capitol in Madison, Wis.

I could not agree more with the two statements that have been made just previous to what I am about to say. I too, along with Durward McDaniel of the American Council of the Blind, have submitted a statement which I would like to have included in the record.

Then I would like to go on and address myself to some points, citing some pretty specific examples as to how the bill could help to solve a number of problems that are occurring in the program today.

Senator RANDOLPH. Your statement, Mr. Segal, will be included in its entirety in the record of the hearing, and you may make such comments as you desire. I personally am pleased that you are going to be able to give us some specific examples.

Mr. SEGAL. I will give you some very specific examples of the number of ways in which the post office, GSA, State licensing agencies, HEW, and a number of others preclude blind vendors from obtaining stand locations, in operating them well, and from obtaining good livings from them.

First I would like to say the Randolph-Sheppard Board of Directors met 16 days ago and adopted certain proposals which we feel in effect support S. 2581 and give some clarifying points to the bill.

We are for striking the word "binding" in section 3(6), and I will not amplify that since Mr. Schloss also stated that quite capably.

We also adopted a resolution in opposition to increasing the uses for set-aside money because we feel this opens a Pandora's box which will put a burden on the back of the operators which will militate against strengthening the program.

We are also opposed to limiting or putting a ceiling on vendors' income because in most of our States the programs are promotional programs.

We start at the bottom and hopefully, if you are going to spend a lifetime or a career of some number of years in the program, we need good locations to attract young people, and well qualified people into the program where they can spend a life and progress, which is the way most of us prefer to do it in our society.

In regard to the vending machine income, we feel as basically stated in the bill this will be quite helpful. However, we believe that the moneys should not be used for set-aside purposes, that the moneys should be kept in separate funds and used on a national basis for medical and hospitalization insurance and for retirement purposes.

We believe that the program should be national. At least good rates of insurance can be obtained in the few States that have 150 or more stand locations. If the insurance were purchased on a State basis, the operators in those States would end up with good insurance programs. In the smaller States this would not happen. So we are proposing that in the locations where there are no operators, the moneys be collected by the State agencies and transmitted to a national fund

which should be set up, and that some sort of national body of operators be established to control and to administer the fund.

Now, I would like to address myself to some of the real problems. In arbitration we are in favor of the arbitration as set up in the bill, but we feel that in the section that deals with problems between the State licensing agency and the Federal department that the operator needs to be included here because often he is not consulted.

In an Atomic Energy location in Pennsylvania an operator's location was moved and redesigned in a way that he felt was going to reduce his income, and yet the State licensing agency and the Federal department, without notifying or consulting this man in any way, proceeded to develop these new plans.

Often the State licensing agency does not properly advocate for the blind vendor. We are told that we have to be nice guys to these Federal departments because if we are not we will not get any more locations, so the State agency is the nice guy and the blind guy is the one who winds up left. So that we believe the operators need to be involved in negotiations between the State licensing agency and the Federal department.

I believe for clarity's sake I will give most of my examples from Pennsylvania because they are more familiar to me. A couple of years ago in a post office in Chester, Pa., we lost a stand that we had been operating for nearly 20 years because the postmaster liked to have a pay booth for his employees which was literally behind the counter of the stand, and he had a bulletin board at the other end of the stand.

After almost 20 years the equipment was antiquated, and the State licensing agency wanted to remodel the stand.

Well, the postmaster would not move his bulletin board and would not move his phone booth, but he was perfectly willing to move the blind operator out of an opportunity to earn a living.

Senator RANDOLPH. Will you give us the name of the postmaster? Can it be given to us later?

Mr. SEGAL. I do not know. It is Chester, Pa.

Senator RANDOLPH. Is it the main post office?

Mr. SEGAL. I do not think so. I will get you the name. There is a different postmaster now. I will get you the exact date of the closure.

Senator RANDOLPH. Yes; I think we can understand when you mention a specific person we want it documented, and, Mr. McDaniel, you would understand the need, and you will help Mr. Segal.

Mr. MCDANIEL. Yes.

Mr. SEGAL. I understand also.

[The information referred to follows:]

POSTMASTER AT CHESTER, PA.

Former Postmaster: Emil Bianca (retired three months ago).

Current Postmaster: John Caldwell.

Mr. SEGAL. In a post office in the Federal Building in Pittsburgh—and this was in the Pittsburgh newspapers from where I got it—there was a man operating a stand for many years and receiving a portion of the income from vending machines.

According to the post office's own publicity on this case 1 year ago after the Marjorie Boyd articles appeared, and there was some pub-

licity in the area, the justification by that post office is that they are doing well by their blind operator in that area because they make a profit of \$45,000 from the machines in that building, and they give him 20 percent of it.

So in just one location we can easily see, as Mr. Taylor has mentioned, blind people actually operating vending machine businesses where with this kind of money available in one building this is a highly desirable kind of thing.

After considerable pressure from a Pennsylvania merchants group, which is called the Pennsylvania Blind Merchants Guild, the State licensing agency decided about 1 year ago to try not to be so nice in terms of contracts with GSA.

The operators were able to persuade the licensing agency not to accept the contract. One specific contract was handed down by GSA and asked for expanded selling items in a new building which was to be opened during the summer and fall of this year, and which of course has opened, and by filing further requests, by talking to some of our Senators and Congressmen, it turns out that we can sell more items in the buildings.

I, in a memorandum to Congress this summer, which our State group sets out, stated we felt on a case-by-case basis through contracts GSA was trying to attempt to obtain the same things which their regulation last fall was attempting to obtain, and that is not allowing the operators to sell food and beverages.

In the William Green Building and the Gateway Building in Philadelphia we feel this is exactly what is being done. The cafeterias are getting the vending machine moneys and the blind operator is being restricted as to the items that he can sell.

The contract says that the blind operator will get the vending machine money from vending machines on his floor—of course he needs vending machines on his floor like he needs a hole in the head because first, that will cut into his income and, second there have been no vending machines assigned to his floor. It is my bet that now, that I have complained about it he probably will get the income, but he would not have otherwise.

In the William Green Building we have been assigned a dry stand in the lobby; a semiwet stand on the sixth floor. There is a minority gift shop on the lobby floor, and there is a cafeteria on one of the upper floors—I have forgotten which floor.

The cafeteria is to receive all the vending machine moneys. The semiwet stand is highly restricted as to the food items it can handle. The minority gift shop is not even in the building yet, but our operator on the dry stand is told, "You cannot sell greeting cards because they might do that," and he is not able to establish the precedent of what he is to sell.

In the Custom House a couple blocks away the minority stand was to have gone on the basis that they would not sell what our dry stand in the lobby was selling, only they did. They went in with candy. It was not 10-cent candy bars; it was 29-cent candy in packages, that kind of thing. But candy is candy.

They did this with a whole series of items, and despite the fact their contract prohibited them from selling food in the building, they were doing so until we filed a complaint with GSA, and the practice was stopped.

So in the one building we were allowed to set the precedent because we were the first. In the William Green Building we were not allowed to set the precedent as to who is going to sell what, despite the fact that the minority gift shop is in no way able to give a date as far as we can tell as to when they are going to open.

Basically, I believe that is what I would like to enter into the record.

Senator RANDOLPH. Thank you very much. Mr. Segal. You have helped us in these specific examples. We appropriate this and we will check where necessary. We want the record to be correct. You would want it that way, of course.

[The prepared statement of Mr. Segal follows:]

THE RANDOLPH-SHEPPARD VENDORS OF AMERICA
and
THE AMERICAN COUNCIL OF THE BLIND

Wallace Menning, President	Floyd Qualls, President
and	and
Arthur Segal, Member of the	Dr. S. Bradley Burson,
Board of Directors	Legislative Chairman
Randolph-Sheppard Vendors of America	American Council of the Blind

Durward K. McDaniel
National Representative
American Council of the Blind
818 18th Street, N.W.
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Washington, D.C. 20006

STATEMENT BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED, SENATE COMMITTEE
ON LABOR AND PUBLIC WELFARE

November 19, 1973

SUMMARY

The Randolph-Sheppard Vendors of America and the American
Council of the Blind:

1. Favor the enactment of S. 2581 with amendments;
2. Favor the mandatory assignment of vending machine commissions for blind licensees and for program purposes;
3. Oppose any provision in the Bill and any legislative history which would tend to validate or legalize the receipt of vending machine commissions by Federal employee organizations;
4. Favor the arbitration and judicial review provisions with some amendments;
5. Favor the use of vending machine commissions where there is no blind licensee on the property for retirement and health insurance benefits;
6. Oppose the enlargement of the purposes for which set-aside funds can be spent.

The Randolph-Sheppard Vendors of America is a national organization of blind persons engaged in the operation of vending concessions on federal and other property, primarily as a result of the Randolph-Sheppard Act of 1936. Vending concessions are now being successfully operated by blind persons in more than 3,000 locations where approximately 3,400 blind persons are employed. It is timely and proper that these affiliated organizations join in this statement to commend Senator Jennings Randolph and all of the others who are sponsoring S. 2581. The Act has not been amended since 1954. Those who do the day-to-day work in the program recognize the practical need for the amendments which are now proposed. We are pleased to join with the other major organizations of and for the blind in support of S. 2581.

In 36 years, blind operators of vending concessions have demonstrated the ability to do much more than what is contemplated by the Act as amended. The Act's purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind and stimulating the blind to greater effort in striving to make themselves self-supporting has been achieved to such an extent that the ability of blind vendors to perform successfully in a greatly expanded program is now beyond question. S. 2581 will update the Act in the light of modern merchandising requirements and in recognition of the proven abilities of the people who will be afforded new opportunities for employment.

The provisions relating to the alteration on construction of federal property are practical and are made desirable by reason of experience. They will facilitate planning for vending facilities and will not work a hardship upon the government.

The Bill deletes certain negative and restrictive provisions which all proponents of this legislation believe to be inappropriate and undesirable. Liberalized authorization for the sale of articles and services is a "must" in order to keep pace with modern merchandising methods and meet the demands of customers. However, the word "such" which appears on page 6, line 18 in Section 4 of the Bill should be deleted because of its restrictive effect. The liberalized definition of "vending facility" is justified by the substantial number of successful concessions already being operated in all kinds of such vending facilities. Blind persons are today successfully operating automatic vending machines, cafeterias, snack bars, cart services, and numerous related auxiliary services.

The Bill provides for the mandatory assignment of vending machine income to achieve and protect the priority given to blind persons licensed by a State agency. This provision has

-3-

direct application to revenue derived from vending machines operated on federal property. To the extent that it has been made available under the present law, such revenue has been used to supplement the income of blind vending stand operators and in some cases to supplement State funds for the operation of the vending stand program.

The mandatory assignment of vending machine revenue would provide substantial sums of new money for the achievement of the purpose of the Randolph-Sheppard Act without creating any hardships for federal employees. Likewise, the mandatory assignment of this revenue to achieve the purpose of the Randolph-Sheppard Act would place no burden upon the United States Treasury because the funds in question have not been collected by the government.

Vending machine income as used in Section 7 of the Bill, proposed new Section 7(a) of the Act, pertains to "commissions" rather than all income and clarifying language will be suggested at a later date. Paragraph (e) of Section 7 should not be applicable to paragraph (a) because of the undue restriction which it would impose.

Over a period of several years, unions of federal employees have been increasingly successful in acquiring the possession and use of revenue from vending machines operated on federal property. This has been accomplished by the cooperation and acquiescence of the administrative branch of government through the recognition of de facto "employee welfare committees" and "employee welfare funds." When such revenue is captured through these devices, it is presumably used for the "welfare and benefit" of federal employees. It has no relevance to work performed by federal employees for the government. Since this arrangement is not authorized by an Act of Congress, we believe that it constitutes a conflict of interest under the provisions of 18 U.S.C. 209. This arrangement is also contrary to decisions 32 Comp. Gen. 124 and 32 Comp. Gen. 282 of the Comptroller General of the United States. A bill which would have sanctioned such practices was never reported out of Committee: H.R. 6325, 81st Congress, 1st Session (referred to in the earlier decision of the Comptroller General). These decisions were rendered 21 years ago, but the Comptroller General neglects his public duty by permitting the continuation of the illegal diversions of funds which, according to those decisions, should go into the United States Treasury if they are not used for the purpose prescribed by the Randolph-Sheppard Act. We are concerned, and we petition the Congress to be concerned, about the diversion of funds for illegal purposes and about the Comptroller General's failure to enforce three Acts of Congress: 20 U.S.C. 107, 18 U.S.C. 209, and 31 U.S.C. 484.

-4-

Although there are now more federal buildings and more federal employees than ever before in the history of the Randolph-Sheppard Act, the increase in the number of vending facilities operated by blind persons has not kept pace with the increase in buildings and employees. Some departments of the federal government have declined to implement the Randolph-Sheppard Act. The most significant factor in the administrative failure to implement the Randolph-Sheppard Act has been and is the successful competitive influence of vending machine companies who operate on federal property by virtue of illegal contracts with federal employees, made for their mutual profit and benefit. Such arrangements are usually made with so-called employee welfare committees. These committees are not created or authorized by statute. They are the alter ego of federal employee unions and associations. They pay no taxes; they are not audited by the General Accounting Office. That the employee welfare committees are fictitious mechanisms created to capture funds for the use and benefit of members of unions and associations was clearly revealed in hearings before the last Congress. That is to say, there was not and there will not be opposing testimony by employee welfare committees but only by the real parties in interest: the unions and associations of federal employees. Federal employees do not operate or service the machines from which they derive profit. The work is done by employees of private vending machine companies. It will be argued that federal employees are entitled to this windfall income because they are the customers. In hearings three years ago, Congressman Brademas accurately diagnosed the "customer" theory by applying it to the House dining room, where members of the House of Representatives are the customers but do not claim or expect a windfall.

The provisions for arbitration of disputes create orderly and desirable procedures for the operation of this program. Another important remedial provision of the bill is that making the Administrative Procedure Act applicable to the Randolph-Sheppard Program. This provision has been made necessary by negative court decisions. Section 5(a)(3) of S. 2581 on page 9, line 17 uses the term, "binding arbitration," which does not conform precisely to the language of the new Sections 5 and 6 created by Section 7 of the Bill. Therefore the possible ambiguity should be resolved by striking the word "binding" on page 9, line 17 of the Bill. We approve the arbitration provision for State licensing agencies in proposed Section 5(b), but we believe that blind licensees should be included to assure successful operation of the program if a State licensing agency should fail or refuse to complain.

Judicial review appears to be adequately provided for in

the Bill with one major exception. Section 3 of the Bill, proposed new Section 1(b) of the Act, vests certain power and authority in the Secretary. His acts and omissions need to be expressly made subject to the Administrative Procedure Act and to judicial review.

A retirement system and health insurance coverage are badly needed in the vending facility program, and we believe that these benefits should be financed on a priority basis from vending machine commissions in preference to other program activities which can be funded from other sources. We favor a nationally administered retirement system rather than a separate one for each state because a more beneficial plan can be obtained for less money for a large national group and the cost of administration will thereby also be minimized. Blind vendors through their own organization should be included in the planning for a retirement system and health insurance coverage and in the rulemaking process pertaining to the expenditure of set-aside funds. Blind vendors should also have a part in the permanent administration of a national retirement and health insurance program.

While progress has been made in raising the average income of blind vendors, a substantial portion of the vendors cannot afford to pay larger amounts in set-asides from their present income. Indeed, many vendors cannot afford what they are now paying in set-asides for present purposes. As indicated earlier, the most important fringe benefits should be financed from vending machine commissions rather than through additional set-aside payments.

CONCLUSION

S. 2581 will permit a substantial increase in the number of vending locations established and the number of blind persons employed. Its provisions, with amendments, will be progressive and desirable, and we urge the enactment of the bill.

APPENDIX A

Suggested language for proposed new Section 5(b) of the Act, contained in Section 7 of the Bill:

Section 5(b) "Whenever any blind licensee or any State licensing agency..."

Suggested language for proposed new Section 6(b)(2) of the Act, contained in Section 7 of the Bill:

Section 6 (b)(2) "The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency or by a blind licensee as provided in Section 5(b) of this Act shall be composed of three members appointed as follows:
(A) one individual, designated by the State licensing agency or by the blind licensee, as the case may be; "

Senator RANDOLPH. Karen, why do you not give us your name and tell us your story. We would like to have it.

Mrs. PERZENTKA. Thank you very much. I am Karen Perzentka from Madison, Wis., secretary of the Randolph-Sheppard Vendors of America, and only on Friday I learned that I would be coming to Washington to sit in on testimony, and I am very glad to be here.

As secretary of the vendors organization I would like to emphasize again the three changes in the amendments that we would like to see in the record.

One, not expanding the set-aside funds, as Mr. Segal has stated, two, the use of the vending machine moneys for retirement and insurance, health care insurance, hospitalization insurance for the operators in the program; and, three, the concept of not having a ceiling on income for vendors in Federal locations.

Senator RANDOLPH. Karen, do you operate a stand?

Mrs. PERZENTKA. Yes. I operate a stand in the State capitol building in Madison, Wis., and my husband operates a semicafeteria in another State location in the same city.

Senator RANDOLPH. Your husband being blind also?

Mrs. PERZENTKA. He is legally blind, partially sighted. I think sometimes people tend to believe that all blind people are just that, totally blind. He has a visual acuity of 20/70, I believe, which is a partially sighted person.

Senator RANDOLPH. For the record only, Karen. I think it is important, we are hopeful that those who operate facilities such as you are doing well. You have every right to do well, and I hope that those customers are there to produce the revenue.

What were your gross receipts, let us say, for last year, as to income?

Mrs. PERZENTKA. In my own location?

Senator RANDOLPH. Yes, in your own location. What was your gross income last year, in 1972.

Mrs. PERZENTKA. Because I had some employees that I usually do not have, it was somewhat lower than normal.

Senator RANDOLPH. What is your normal year, would you say? That would be a way to answer it, an approximation. We are not asking you to bring your income tax return.

Mrs. PERZENTKA. \$6,000.

Senator RANDOLPH. A year?

Mrs. PERZENTKA. Yes.

Senator RANDOLPH. Is that net or gross?

Mrs. PERZENTKA. That is gross. It is gross income; not receipts.

Senator RANDOLPH. Out of that gross income do you have to pay people? Do you have others working for you that you pay from that gross income?

Mrs. PERZENTKA. No; I do not.

Senator RANDOLPH. That is your gross income?

Mrs. PERZENTKA. Yes. That is correct.

Senator RANDOLPH. Thank you very much.

Let us skip over to the other side of the table. Milton Perry, would you give us your testimony and identify yourself for the record.

Mr. PERRY. Senator Randolph and members of the committee, I am Milton Perry, president of the District of Columbia Stand Operators Association. In that capacity I have been a stand operator licensed by the Rehabilitation Department here in the District of Columbia, and I have served some 32 years, going on 33.

At the outset, let me ask the committee: We have with us our colleague on my left here who is vice president of the association, Mr. George Reed, to give testimony. If this is permitted, our testimony will be in two parts. I shall present my part and then ask my colleague to do the same if that is permissible.

Senator RANDOLPH. Yes, indeed, sir.

Mr. PERRY. We appreciate this opportunity of being here to say what we can on behalf of the operators not only of the District of Columbia but those throughout the Nation and attempt to better our ways of operating our vending stands.

We refer to ourselves as vending stand operators. We concur with the amendment of S. 2581. We are certainly urging that the subcommittee report favorably and that the Senate and House will act favorably upon it.

There is one area we as stand operators have some concern. As I recall, Mr. Segal and the secretary of his organization have pointed out this matter pertaining to vending machine income. In many areas in many States many of the licensing agencies have devised methods of issuing such regulations as would limit the earnings of the operators. Now this is done in many ways. For example, there are certain formulas in certain States that if a particular location goes over x dollars per year, then instead of going out and establishing new locations, two operators are put on this one location, therefore dividing the profits thereof.

In the District of Columbia here we have through the cooperation of the Rehabilitation Department—we hope that we have—solved this particular problem. However, we would like to see that the Secretary of HEW in making a determination of what would be excessive for an operator to first consider the formula of that particular locality as to the operator's earnings. We would not like to see the Secretary of HEW determine a ceiling. We would prefer instead for them to revert back to the formula stated.

Mr. Chairman, we have in the District of Columbia, I suppose a composite of all the types of locations operated throughout the Nation.

Senator RANDOLPH. How many operators are there in the District of Columbia in the various buildings?

Mr. PERRY. We have 75 operators at the present time.

Senator RANDOLPH. Are they all in Federal buildings?

Mr. PERRY. No; a majority are in Federal.

Senator RANDOLPH. What is this breakdown, do you remember? It is not important to have an exact figure.

Mr. PERRY. I will get the exact figure but I am sure that no more than five would be in District buildings. These are District government facilities.

Senator RANDOLPH. Yes, sir, thank you.

Mr. PERRY. We have a number of problems. The proposed regulations that were issued by GSA last December which inspired a number of operators because this is a matter of bread and butter—to vigor-

ously oppose this. On the surface the General Services Administration did say these would not be effective but from a practical standpoint it seems as though locations we have been getting for the last year or even longer have been primarily the dry stands.

Of course, there are a number of conditions why we do not necessarily need dry stands, the volume of sales, the types of merchandise to be sold are very low profit items, the demand on the part of the customer is not as great as food service programs, so in effect we have found the experience as Mr. Segal, that even though these regulations are not into effect, we find in general practice this is what is happening. It is not only the merchandise to be sold on stands that we are competing with over entities that have come into Federal buildings for food services and this sort of thing, but we are competing for space.

I point out to you that over in the State Department where we have two locations, these locations are limited to gums, candies—I do not believe gums are on the permit—but they are primarily newspapers, magazine operations.

There was a vending area established in the State Department and the income went to Recreation Welfare Association and we asked for this space and it was denied. Later, the machines were removed and a minority enterprise was put in. So you see it is not only for merchandise to be sold but we are competing for space. I must say in recent months it has been considerably improved. I can recall when I first came into this program back some 32 years ago that my stand was located in the basement of a building. We sold coffee and there was absolutely no ventilation whatsoever—not even an exhaust fan—so we have improved from that type of operation wherein we are given facilities that are a little bit better.

We have an excellent relationship here, Mr. Chairman, with our Rehabilitation Department. We use the nominee type of operation here. It might be interesting to the committee that there are no tax funds whatsoever that revert into our program here in the District of Columbia. We not only buy our equipment and maintain it and pay the fair minimum return through our set-aside funds, but we pay for our own managerial services. There are not even any Federal or District funds that are funneled into our program here at all. We are entirely self-supporting.

Certainly after Mr. Reed's testimony, I will be available for questions, too. Thank you.

Senator RANDOLPH. Thank you very much.

Mr. Reed, would you give us your thoughts at this time? I am not attempting to hurry you but I have problems with the Senate floor with matters that are going to take me there very soon and of course Mr. Humphreys, our counsel, will proceed when I am not here. But I want all of you to understand that I am absent only when it is absolutely necessary.

Mr. REED. Thank you, Senator Randolph. I have been identified. I am George Reed, vice president of the D.C. Stand Operators Association which is the organization representing the operators in the District of Columbia vending program and I am also president of the Board of Directors of District Enterprises for the Blind. This organization is the nominee agency that is used by a State licensing agency which in our case is the D.C. Rehabilitation Department. Mr. Perry is

vice president of it. This will tell you immediately it is an organization in which operators have input at a pretty high level of program operation.

For the opportunity to say a few words I am very grateful, and the first few I am going to say, I guess, are the most important, that in both capacities for the D.C. Stand Operators Association and for District Enterprises for the Blind, I heartily endorse the objectives, purposes, and overall language of S. 2581.

I did not present formal testimony because I think that I was only expected really to talk about the experiences that I have had. I operate a stand in the building that is occupied by GAO who earlier submitted some testimony here. In that location I have had the experience of being encroached upon by minority business enterprises. I want just to tell you how it happened.

Somebody came and without saying very much to me, they looked over my stock. I asked some questions as to what their purpose was, and they told me that they were interested in putting a minority business enterprise location in the same GAO building, and they did not want to compete with me in any way, so they wanted to examine my stock first.

I thought this was well and good and I approved. But when eventually announcements went around that this minority business enterprise location would open up it turned out, they were going to open a greeting card shop and some 10 percent of my business is in greeting cards.

How they had arrived at the fact that this was not competitive, I do not know. Who was responsible for it I do not know. But through the Rehabilitation Service here in the District we made contact with Senator Randolph, the chairman of this subcommittee, and we let him know that here was an operator in the Randolph-Sheppard program who was not getting preference and whose rights were being encroached upon.

I am very happy to say that Senator Randolph rose to the occasion and wrote a very forceful letter to GAO telling them what was going on there and telling them he disapproved and believe me they took action immediately so that minority enterprise has not gotten under way yet.

We are sure that when it does it will not be carrying greeting cards.

At this point I am a little bit confused as to what it will carry. I was told that it would carry gifts. It is to become a small appliance and gift shop and coin collections and things of that sort which are certainly in no way competitive with what I am selling. But I went up there today just before coming over here and saw a sign on the door announcing that they were opening up a "goody shop" from 12 to 2 today. They would be opened up and they would be selling candy, and candy was very prominently displayed in there on the shelves. These are boxed candies and I suppose could be construed as gifts. It may be that they call that a part of this gift thing. But we normally sell boxes of candy too, at this season of the year. Of course there was no consultation between us. There was no way for them to know this, I suppose.

It illustrates, it seems to me, how encroachments get out of hand, maybe not intentionally but because there are not the right kind of consultations made. I do not know yet just what the final decision of this

competitive thing will be. I think this example illustrates that we are up against encroachments—from minority business enterprises, from Government Services Inc., employee welfare associations and others.

I remember hearing something in the testimony from GSA about there being mutually agreeable divisions of the vending machine commission. I think sometimes these agreements are not as mutual as we would like them to be.

In my building for instance the agreement supersedes my taking over this location but the agreement permits only some two floors of vending machine income to the Randolph-Sheppard program. Yet there are vending machines on eight other floors of the building. These commissions go to Government Services Inc. and Employee Welfare and Recreation Association activities and all that sort of thing. There are all kinds of provisions that I think leave us pretty much out in the cold.

There is one other thing about this vending machine income. When the government finds it necessary to move people from one location to another it very often diminishes the commissions that go to the Randolph-Sheppard stand considerably, and of course the stand has no recourse there and there is nothing they can do about it.

In my case, last May some 1,400 people were moved out of the GAO building. Most of them were moved from the area serviced by my vending stand and my vending commissions have been reduced by more than 40 percent. These commissions carried a considerable part of my overhead. Just as GSA claims that they also need overhead expenditures paid for by vending machine receipts, so do I.

If I am going to provide the proper amount of staff, to give fast service and keep my place clean and sanitary, I am going to need vending machine commissions to help pay that bill. This is the kind of thing we find ourselves up against. We cannot do anything about it. The division vending machines commissions that were mutually agreeable suddenly become very disagreeable.

I do want to say too, that we want to be careful about the ceilings that might be set on receipts from vending machines. It is for the reason I have just given—that we use these receipts sometimes for our overhead, so it should be first determined that the operator's net income is in an area which could be declared excessive before you start taking money away from him for either use by the program or for any other reason.

But I disagree a little on the matter of not creating an additional set aside purpose, this fifth one. Fringe benefits that are common in business and industry are largely denied to us. Nor can we provide them for ourselves due to our variable incomes. We have no assurance of progressive improvement in our income. We sometimes lose customers through no fault of our own and sometimes lose locations for the same reason. Therefore, the program should be set up to make fringe benefits inherent in the program structure.

We cannot do that unless some money is provided by the program itself in some way for retirement and other fringe benefits, insurance, and so forth, that have been mentioned. I think therefore it may well be necessary to include this purpose. This is not to say that in all States this fifth purpose would be required. I know that we fought a 30-year battle here for some money to be set aside for retirement with

the nominee agency that was running the program at that time. District Enterprises for the Blind did not take over until just about 2 years ago. For 32 years prior to that the nominee agency had been allowed to accumulate money in excess of what it needed to run the program and it developed a pretty good surplus.

The operators began to feel that some of this surplus could be used to provide fringe benefits. We fought very vigorously very long but very futilely to get some of that money for these fringe benefits. Then when we got the State licensing agency interested in our battle and they would give us money from what they called reserve and stabilization funds that they were using for the program, it was determined that it was against the law; and we could not do it.

There were only those four purposes you see, for which we could set aside money. We could levy an administrative fee for only one of those four purposes. So you can see why I am interested in some kind of change in the program that will permit the use of money for benefits.

I am also interested like everyone else in lifting all arbitrary restrictions against what we can sell, especially when the restrictions they impose on us have no relationship whatsoever to the competence or the lack of it of the blind operator. These are imposed solely for the benefit of the competing interests. This ought to be changed.

I think, Senator Randolph, and committee members, I have covered most of the items that I wanted to talk about. Thank you very much for the opportunity.

Senator RANDOLPH. Thank you, Mr. Reed. You are very articulate and I listened carefully, as I have, of course, to all the witnesses who have spoken. At this point I think I want to place in the record the most recent figures that we have in connection with the stands that are now being operated.

In the fiscal year 1971 Federal stands numbered 881; in 1972, 878; in 1973, 874. So there is a lessening year by year of the number of stands in Federal buildings.

In fiscal year 1971 there were 2,261 non-Federal stands; in 1972, 2,351; in 1973 there were 2,433 stands; an increase. The total stands for fiscal year 1971 is 3,142. In 1972, 3,229. In 1973, 3,307. That is an increase in this period, from fiscal year 1971 to fiscal year 1973 in the total number of stands of 165, but a decrease in the number of Federal stands.

We had a decrease as I have indicated of 7 stands in Federal locations, and an increase in non-Federal locations of 172. Therefore we have an increase in the total number of stands from 3,142 to 3,307. That is an overall increase of 165.

But the Federal Government is not participating in the increase.

I think it is noteworthy, and we will place in the record, the number of non-Federal vendors and certain sales figures. I think it is truly remarkable and I want, on this second day of the hearing, to indicate that we have had an increase of about \$18 million in gross sales since 1971 with the total net proceeds rising by \$4.3 million. The total sales in 1973, \$119 million.

[Information subsequently supplied for the record follows:]

RECENT STATISTICS ON

RANDOLPH-SHEPPARD PROGRAM

	FISCAL YEAR 1971	FISCAL YEAR 1972	FISCAL YEAR 1973
FEDERAL STANDS	881	878	874
NON-FEDERAL STANDS	2,261	2,351	2,433
TOTAL STANDS	3,142	3,229	3,307
FEDERAL VENDORS	986	1,005	991
NON-FEDERAL VENDORS	2,466	2,578	2,610
TOTAL VENDORS	3,452	3,583	3,601
TOTAL GROSS SALES	\$101,304,773	\$109,847,028	\$119,302,267
TOTAL NET PROCEEDS	\$ 20,611,157	\$ 22,768,349	\$ 24,891,244
AVERAGE EARNINGS	\$ 6,516	\$ 6,996	\$ 7,452

Senator RANDOLPH. If business were operating with sales of that kind, just general business across the board, what would they hope for in the average earnings of those persons who were participating?

I give you the figure of the average earnings per person in 1971 of \$6,516, in fiscal year 1972, earnings \$6,996, and in fiscal year 1973, \$7,452. So the average earnings are very, very modest.

Think of it, on a gross business of \$119,302,267. So if, and when people attack this program from a standpoint of individual average earnings of the blind, they are in error. I could use stronger language but it is not necessary. I hope the very strong, powerful agencies of the Federal Government—I am not ascribing to them anything other than what they believe to be the facts as they present them—but I would like to remind them that here are 3,307 blind persons who have not permitted themselves to be on relief, or charity, on welfare rolls, but people who are earning on an average \$7,452 a year as productive American citizens, people who are working, people who are selling, people who are contributing their tax dollars into the Treasury of the United States.

Mr. McDaniel, you are sort of the roundup man here. You have been here before our subcommittee many times and we value your testimony. Would you give your name and your organization.

Mr. McDANIEL. Thank you, Senator. I appreciate the opportunity to be here. I am Durward McDaniel, national representative of the American Council of the Blind.

Mr. Segal has already referred to the joint statement which has been presented on behalf of the Randolph-Sheppard vendors and the American Council of the Blind, and you have indicated that will be printed in the record.

Senator RANDOLPH. Yes; it will.

Mr. McDANIEL. Some of what I say will be by way of emphasis of what Mr. Segal has said.

Senator RANDOLPH. But you continue. You understand I may have to leave while you are speaking. You will understand that.

Mr. McDANIEL. Yes; I do.

Senator RANDOLPH. Is Mr. Connery present?

Mr. Connery, I want you to stand, would you, please, at this time. I may not be present when you testify. You may be at the last of the witness list this morning but the chairman of this subcommittee does not feel reluctant, he is eager to express appreciation for you and what you have done and for the testimony that you have given in the past.

Thank you for being here.

Mr. CONNERY. Thank you.

Mr. McDANIEL. By way of being more specific and in some cases amplifying what has been said before, our prepared statement points out some areas in the bill which can be clarified or strengthened by amendment, and with respect to two places, specific amendments have been set forth in the statement. The proposed section 7(a) of the act, which is section 7 of the bill, in our opinion, requires considerably more precise language in that paragraph (a) refers to all vending machine incomes. This is the mandatory assignment section. Of course, the gross receipts from vending machines are not really what is intended by the language of the bill, talking about those commissions which are normally paid, and we will in due time submit some more precise language which will pin that down to what is really intended.

There is no basic disagreement, I am sure, as to what we are talking about but I should be more precise.

We are concerned that paragraph (e) of section 7 would limit all the other provisions of that section to offices or places of work for the Federal Government which would be inadvertence, I think, omit national parks, highways, public lodges, Federal buildings, and perhaps even corridors of Federal buildings. In any event, we would suggest and advocate that paragraph (e) be not made applicable to (a) which deals with income which would accrue to blind licensees or to the program so that we would not have a restriction upon the source of such funds.

With respect to paragraph (d) of section 7, that is the section which would provide for some indemnity by the Treasury of the United States under certain cases where there remains a depreciable life, machines displaced in time by the program. It is our apprehension and expectation that the Treasury Department will oppose this because of this bill, and if there is to be an addendum, if the Congress wants to put that in, we think that it might better come from some of the vending machine commissions which paragraph (a) provides for rather than putting a burden upon the Treasury of the United States and in that way we might very well avoid the opposition of the Treasury Department.

With respect to the substantive enlargements of the act, I think we are all agreed that those things are well demonstrated and very desirable. I made one suggestion as to removal of the word "such" because I thought it tied the word "articles" to antecedents such as food and beverages and nothing else. I am sure that the drafters of the bill did not intend that.

The arbitration provisions, the Administrative Procedures Act applications, the judicial review are all essential tools which the people who run this program need in order to make it function properly. My expectation is we would not need to use them often but that if the remedies are there, the law will be complied with much more strictly than has been the case in the past.

In the case of the blind licensee, Mr. Segal has stated our position on that, that he too should be figured into the complaint system with regard to Federal agencies and departments.

With respect to the administration, which he pointed out of a national retirement and health insurance system, I would like to call your attention to the fact that in the State of Illinois an organization of more than 100 vendors which is part of the Randolph-Shepard Vendors of America does by contract with the State licensing agency, manage the program in that State. They have not only proven their ability to run the insurance program and other related activities, but through paid staff—to manage the vending stand program. That has been a very gratifying experience. It is done by contract with the State agency and in less than 3 years they were able to increase the net earnings of operators by one-third, so that not only can they manage their individual businesses but through their policies and through their paid staff they have proven their ability to manage the collective program in that State.

With respect to the testimony of others—and this is the only time we will have to comment on that, I think in person, anyway, I was impressed with the testimony of Mr. Hoehne on Friday and I noted

with great pleasure his special emphasis on the propriety and the desirability of having some orderly and regular way for blind vendors to participate in decisionmaking and the running of these programs not only in connection with the retirement systems but as he pointed out in the matter of spending of set-aside money. So that the organizations which I speak for here today concur wholeheartedly in what Mr. Hoehne said in that respect and I hope that some appropriate language can be included in the bill and/or in the committee reports which would give basis for that in the operation of these programs.

The spokesman for the GSA I think, was quite candid. I thought that his testimony implied rather directly that a blind vendor could not run an efficient, sanitary, reasonably priced cafeteria. He spoke of a 30-minute lunch period and that a longer period of time would be required if the cafeteria were managed by a blind person.

There are cafeterias managed by blind people not on Federal property which would refute that implication. I would point out that the language in the bill which we have agreed to provides that cafeterias are possible only when the State licensing agency demonstrates the feasibility and the Secretary of HEW approves.

I do not believe that the State licensing agency and the Secretary are going to go that far afield that they are going to approve an operation which is not feasible and not in the interest of the United States. The Secretary is given the authority to make that determination and one of the amendments which we believe to be necessary is that the Secretary's acts and omissions in that regard should also be made applicable or should be affected by the judicial review or Administrative Procedures Act because references to those acts in the bill do not pertain to that particular function.

One year ago we were all upset and protesting about the proposed regulations by GSA. One of the facts which came out of it was that GSA had signed a contract with a cafeteria company which gets called GSI and operates a number of cafeterias. The date of that agreement was said to be 1949. I wrote them a letter and asked for a copy which I did not get. I know that under the Public Information Act I could file a lawsuit and get it but I would like to recommend to the subcommittee that a copy of that agreement be acquired and placed in the record of these hearings. I think it ought to be exposed to the light of day so we can see what kind of terms these cafeterias operate upon.

With respect to GSI cafeterias, I am informed—cannot find out as a matter of direct knowledge—that the boards of directors are in fact Federal employees and I submit that there is a very strong indication of possible conflict of interest in that case where present Federal employees serve on the board of directors of a corporation which has a contract with the GSA or other Federal agencies to operate a business on Federal property.

I do not know all the facts. Those facts are not easy to get but I do believe that they are an appropriate part of the inquiry of this subcommittee.

With respect to the GSA, Mr. Feazell who is one of the directors of the Randolph-Sheppard Vendors of America, has called my attention to new buildings in Chicago. I cannot give you the addresses; I can furnish it. They are across the street from each other. In one case GSA is permitting the State licensing agency to install a dry stand. The

understanding he has is that they will not be allowed to sell certain items in competition with the cafeteria. In the second building they are not being allowed to establish even a dry stand which goes back to the allegations which have been made here that on a case-by-case basis the rules which were withdrawn last year are being implemented one by one.

With respect to the person from the Postal Service, I would like to point out a particular case in Memphis, Tenn. The vendor, his name is Tommy Cox, moved from an old to a new postal location and his location is not right in the lobby but it is very close to the work area. One of the things which has happened to him is that after the postmaster permitted 39 machines to be contracted for by an employee association, he also directed that the door which leads from the workroom to the public area where the vending stand is located, be locked and kept locked so that if the postal employees want to buy something from the vending stand, they have to leave by an outside door, come all the way around the building into the lobby and they do not usually have that much time during break. It is in Memphis and I conferred with Mr. Cox and others and I asked him what the explanation was for that and he said the postmaster said it was for security reasons and he denies that he has stolen any mail or anything like that, but the door is locked.

My investigation of the facts tells me that the only possible reason for its being locked is to give the 39 machines operated by someone else a monopoly on the employees' business.

On the one hand the Postal Service says that they encourage vending machine companies to hire blind people to work but on the other hand that if the blind licensee is to operate the vending machines then it is no longer safe to be in the work area. Those two things do not go together. As for a matter of security, if the vending machines are operated by anyone, that anyone is not going to be a Federal employee and I submit to you that blind people are as good security risks as anyone else.

With respect to the Department of Defense, their record is not one that they will be proud of, often. I know at Tinker Air Force Base in Oklahoma City, my hometown, they were operating six vending stands. It is the largest jet repair base in the world. I suppose there are more than 20,000 civilian employees but the State licensing agency has not been able to get even 1 of those 6 vending stands and the vending machine operation on that air base is of monumental proportions. They just will not let the State licensing agency establish either a vending machine or a stand location on that base. That, as statistics will show, is the general practice of the Department of Defense.

One thing about the minority business enterprise thing which is growing, I would like especially to put this in the record because of the legal questions involved. As we all know, the minority business enterprise program was initiated by an executive order of the President. Most of us, I think, have read that order and it presumably authorizes the operation of retail sales on Federal property. Nevertheless they worked out a kind of fiction on which they proceed, namely that under section 8(a) of the Small Business Act which is a procurement act, not a sales act, not a vending program act, under the guise of procurement they permit these retail sales programs to operate.

It is not procuring anything for the U.S. Government. It is not within the purview of section 8(a), and yet that is the rationale for it. I do not think any of us are unsympathetic to minority business enterprise programs but I do suggest that this program as restricted as it is, is not the area in which they should attempt to expand employment opportunities for other people who perhaps have other alternatives as well.

In terms of progress, S. 2581 would be remarkable in the effect it would have. However, we could win part of the battle, some of the battle, and still lose the war. If we do not have the substantive improvement we are not going to grow. If we get the substantive improvement without the procedural remedies, then we cannot enforce the substantive improvement.

If, as has been suggested, the determination of whether or not the operation of the vending stand by a blind person is of adverse interest to the United States, if that is left to the department and agency heads then we will have lost the war because they make it quite clear they want to leave it as it is.

The Secretary of HEW, next to the President and Vice President, I suppose is as high an official as there is in this country and he should be able to make these determinations on behalf of the Government. If we have the procedural tools to enforce these laws I do not think we will have to do much. But I think more than anything else the battle we have to win in order to win this war is that on vending machine income. Because we cannot compete with the vested interests which rely upon and want to keep vending machine commissions on Federal property.

We have had hearings on this before and it is old, but I must repeat that this is an action contrary to the Randolph-Sheppard Act, without the sanction of Congress, and I think an act of Congress that would mandatorily assign those incomes is what it is going to take, coupled with the procedural remedies which are in this bill and given those changes and those tools to work with, we can finally get down to doing with this program what Congress intended and what blind people who are unemployed and who want to be employed, would like to see done with it.

Mr. HUMPHREYS. Thank you very much. My name is Robert Humphreys, special counsel of the full committee. The chairman had to leave. On his behalf I want to thank you for your very eloquent presentation and also that of Mrs. Perzentka, Mr. Segal, Mr. Reed, Mr. Perry, Mr. Schloss, and Mr. Taylor.

If you do not mind, we will continue with some questions before I present those on behalf of Senator Randolph and also the minority staff director of the committee, Mr. Millenson, has a few questions he wants to ask.

AGENCY RULES AND REGULATIONS

Mr. MILLENSON. First, Mr. Taylor, on page 2 of your testimony, you indicated concern with certain agency rules and regulations which demonstrate detrimental attitudes toward blind people. I was wondering whether you could furnish this subcommittee with the appropriate text of those rules and regulations in order that we might look further into those matters. You do not have to do it now.

Mr. TAYLOR. Yes, I believe I can do that at least. I think the thing that we find is not always in officially published regulations but in the policy statements which are prepared and made available to members of the agency staff that guide them in approval of permits and governing supervising and controlling programs but I can provide you with some information on that and will do so.

[Information supplied for the record follows:]

*NATIONAL FEDERATION OF THE BLIND**524 FOURTH STREET DES MOINES, IOWA 50309**KENNETH JERNIGAN, President*

December 6, 1973

Mr. Robert Humphreys
Committee on Labor and Public Welfare
United States Senate
4230 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Humphreys:

During my appearance before the Sub-Committee on the Handicapped on November 19, 1973, in support of S-2581, I agreed to furnish additional information regarding the restrictive and curtailing attitude of federal departments and agencies toward development of the Randolph-Sheppard vending stand program for the blind.

Attached please find a letter and enclosure of August 19, 1965, from Howard Hanson, President, Region VI, State Directors of Vocational Rehabilitation, to Mr. Lawson B. Knott, Jr., administrator of General Services Administration, requesting that the restrictive policies of the General Services Administration be revised and updated. On September 2, 1965, General Services Administration responded to President Hanson, indicating that it was ascertaining the views of the Department of Health, Education and Welfare. On September 28 Mr. Lawson Knott, on behalf of General Services Administration, wrote Mr. Hanson indicating the GSA decision to the request of Region VI State Directors. You will note that GSA, with the concurrence of the Department of Health, Education and Welfare, declined to alter its policies regarding blind vending stand operators. You will note further from the quotation of the Department of Health, Education and Welfare that the Department failed to support the request of Region VI State Directors although its language could be construed to say otherwise.

In further corroboration of my statement before the Sub-Committee, please find the following pages: 11, 57-58, 59, 60, 61, 81-82, 123, from Chapter 17 - "Concessions," General Services Administration Handbook. These pages are in force as of December 1973 and I have bracketed several statements which indicate restrictions placed on the development and operation of the Randolph-Sheppard vending stand program for the blind. I call your attention particularly

Mr. Humphreys
Page 2

December 6, 1973

to the quotation which appears on Page 59 and reads as follows:

"Although it is preferable that coffee and hot chocolate be dispensed by vending machines, there may be occasions when it must be prepared and dispensed by other means. In that event, the blind operator shall not prepare or serve it, nor handle the utensils used in connection therewith."

The foregoing statement, along with other stipulations that tasks cannot be performed by blind vending stand managers, constitutes a very negative and restrictive attitude toward blindness. This attitude is based more on the traditional stereotype of the helpless and incompetent blind person than on the facts of life available today. In today's society, anyone with even a passing acquaintance with competent and trained blind persons knows that they can handle in a clean and sanitary manner virtually any of the tasks prohibited by GSA and other federal departments and agencies. Blind persons are today involved in such a wide range of occupations and professions involving the performance of specific and minute details, as well as carrying out broad policies, that the attitudes of certain federal departments and agencies can be regarded only as blind to reality and relevance. It is inconceivable that a blind person can function as an electrical engineer and yet be prohibited from handling a coffeemaker. It is absurd to believe that a blind persons cannot make coffee when blind persons are employed as biochemists.

Federal departmental operations manuals are sometimes relatively inaccessible to non-departmental personnel, but I am satisfied that some other federal departments and agencies have established policies which are at least as restrictive as those established by GSA. The restrictive curtailment of departmental policies become substantially self-fulfilling and seriously impair development of the Randolph-Sheppard vending stand program for the blind.

Yours very cordially,

JNT/lm
Enclosures

John N. Taylor

STATE OF SOUTH DAKOTA
SERVICE TO THE BLIND & VISUALLY HANDICAPPED

HOWARD N. HANSON
DIRECTOR

ADVISORY COMMITTEE

CHARLES HYDE, PIERRE, CHRM.
E. M. MUMFORD, HOWARD
MISS MARTHA RED HAWK, ABERDEEN
MRS. DORIS HUFFMAN, ABERDEEN
DR. KEITH LOGAN, BELLE FOURCHE
ELMER SMITH, YANKTON



REPLY TO:

CENTRAL OFFICE
☐ CAPITOL BUILDING, PIERRE 57501
TEL. 224-5911
EXT. 318 & 319

DISTRICT OFFICES
☐ 204 N. WEBER, SIOUX FALLS 57102
TEL. 338-0361
☐ 116 S. LINCOLN, ABERDEEN 57401
TEL. 225-7400

804 North Euclid Avenue
Pierre, South Dakota 57501
August 19, 1965

DIRECTOR

General Services Administration
Washington 25, D. C.

Dear Sir:

The attached statement concerning the General Services Administration's policy against blind vending stand operators making and/or serving coffee, hot chocolate, and fruit juices was presented before the State Directors of Vocational Rehabilitation Agencies and Agencies for the Blind in Region VI during our August 12, 1965 meeting. The directors gave total endorsement to the sentiments expressed in the resolution and requested that I transmit same to you for your consideration and action.

We do hope that this policy will be modified so that these liquids can be served on federal property just as they are now being served by blind persons located in non-federal areas.

Yours sincerely,

Howard N. Hanson, President
Region VI Directors

HHH/a

cc: Mr. Kenneth Jernigan ✓
Dr. Douglas MacFarland
Region VI GSA Representative

In its 1964 revision of regulations issued pursuant to the Randolph-Sheppard Act, General Services Administration has incorporated certain features which are essential to the development and expansion of the vending stand program for the blind. The clarification of policies regarding assignment of income from vending machines and establishment of an appeals procedure are among these noteworthy improvements.

General Services Administration, however, has failed to recognize and countenance in its regulations and policies the ability of blind persons to prepare and dispense many items on the premises. The regulations stipulate that a blind person may not prepare, handle, or serve coffee or hot chocolate, prepared on the premises. The regulations prohibit the sale of soft drinks, milk and fruit juices except when they are placed in containers prior to receipt by the blind operator.

Modern equipment and techniques are now available to blind persons for preparing and dispensing soft drinks, milk and fruit juices as well as coffee and hot chocolate. This equipment has been installed and operated successfully by blind persons in a sufficient number of installations to demonstrate beyond question its practical usefulness. The assumption that a properly trained blind person cannot operate and service modern premix or postmix soft drinks dispensing units or operate, clean and maintain modern automatic and semi-automatic coffee and hot chocolate units is not supported by the experience available.

In the light of this experience, General Services Administration should review its rules and policies applicable to vending stands and snack bars operated by blind persons on federal property, and its regulations and policies should be revised to reflect positively the successful experience of blind persons in operating snack bars on federal property. It is not in the interests of General Services Administration nor Vocational Rehabilitation of the blind for General Services Administration to contend that blind vending stand operators cannot prepare and dispense coffee and other food items in a clean, safe, sanitary manner when blind persons are already performing precisely these functions on many locations.

NAME King DATE 9/1/55
9/1/55

SERVICES ADMINISTRATION



Public Buildings Service
Washington 25, D. C.

SEP 2, 1955



Mr. Howard H. Hanson
 President, Region VI
 State Directors of Vocational Rehabilitation Agencies
 and Agencies for the Blind
 804 North Euclid Avenue
 Pierre, South Dakota 57501

Dear Mr. Hanson:

This is to acknowledge your letter of August 19, concerning
 the policy of the General Services Administration in connection
 with blind vending stand operators making or serving hot
 beverages at blind stands which they operate.

Before replying, we wish to ascertain the position of the
 Department of Health, Education, and Welfare on this matter.

You may expect a reply when we have heard from the Department.

Sincerely yours,

William C. Schuman
 Acting Commissioner
 Public Buildings Service

GENERAL SERVICES ADMINISTRATION

Washington 25, D. C. 20405



Mr. Howard H. Hanson
 President, Region VI
 State Directors of Vocational Rehabilitation Agencies
 and Agencies for the Blind
 804 North Euclid Avenue
 Pierre, South Dakota 57501

Dear Mr. Hanson:

This refers further to your letter of August 19, concerning the interpretation of the General Services Administration regulations governing serving of hot beverages and the sale of soft drinks, milk, and fruit juices by blind operators of vending stands.

We do not construe our regulations to prevent the preparation, sale or serving of these items by any method which is considered safe and sanitary under standards and criteria approved by the Department of Health, Education, and Welfare. Our primary interest in exercising controls of any kind on the items to be sold and the methods by which they are prepared and served at a vending stand is to assure that safe and sanitary conditions prevail. We feel this objective provides necessary protection to the operator as well as to the patrons.

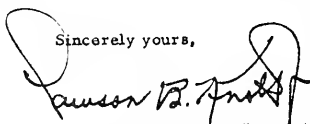
We think each proposal to sell items not specifically mentioned in the Randolph-Sheppard Act or the regulations and the method of selling such items, is a matter for negotiation between the State licensing agency, the Department of Health, Education, and Welfare, and GSA at the regional level. Disagreements at that level are appealable to the Administrator of General Services.

In instances which concern the methods by which various items are to be sold by blind persons and in which appeals are filed, careful consideration is devoted to the views of DHEW. The Department has advised us as follows on this point: "We are continually

experimenting with automatic apparatus which will be helpful to blind operators and will make it possible for them to do some of the chores efficiently which now require sight. Of course, we are very interested in developing methods and devices which are both safe and sanitary. All our present research on automation is currently directed toward this end."

We are in complete agreement with the Department's attitude of continuous experimentation to make blind operators more self-reliant.

Sincerely yours,



Lawson B. Knott, Jr.
Administrator

Enclosure

c. Site Selection. Final determination as to whether and to what extent concession services will be provided in a building will not be made until a site is selected. (See par. 48, below.) When a final determination has been made, the Buildings Management Division shall develop detailed requirements and recommendations concerning the exact type of concession facilities to be provided, and submit them with detailed justification to the Assistant Commissioner, for the possible inclusion in the building plans.

d. Concessions in Leased Space. When buildings are leased or when existing buildings become vacant the regional Buildings Management Division shall determine the concession services which will be needed by prospective tenant agencies. After consultation with the Space Management Division in the case of leased space, it will then arrange for the provision of the needed concession services, to the extent permitted by the other provisions of this chapter.

16. REVOCATION OF APPROVAL. The region should withdraw its approval of a concession when it is no longer needed and will not again be needed in the near future. Approval also may be withdrawn because of seriously adverse factors which develop after original approval.

17. POLICIES RELATING TO SPECIFIC TYPES OF CONCESSIONS.

a. Vending Operations by the Blind.

(1) Articles which the blind may be authorized to sell under the provisions of the Randolph-Sheppard Act (see par. 68, below) normally are considered necessary for the health, comfort, and efficiency of Federal employees while on duty. To provide a convenient service, they should be available in each building where their sale is desired by the building tenants and the population is sufficient to support the service. Therefore, nearby commercial facilities need not be considered in deciding whether vending operations by the blind shall be approved. Such operations shall not be approved, however, when they may prevent the successful operation of an essential food service in a Federal building, or when in conflict with the other provisions of this chapter.

(2) Also subject to the other provisions of this chapter, plans for new public buildings should provide for vending stands to be operated by the blind, approximately as follows:

PART 8. SELECTION OF CONCESSIONAIRES

67. GENERAL. The policies and procedures stated in this part shall be observed when selecting concessionaires to operate new concessions.

68. VENDING STANDS OPERATED BY BLIND PERSONS.

a. Preference for the Blind. When the installation of a vending stand is approved, preference shall be given, so far as feasible, to blind persons licensed under the provisions of the Randolph-Sheppard Act. This preference shall be accorded insofar as each proposed stand may be properly and satisfactorily operated by a blind person, without unduly inconveniencing GSA or adversely affecting the interest of the United States.

b. Articles Which May be Authorized for Sale.

(1) The Randolph-Sheppard Act provides that articles sold by blind persons may consist of newspapers, periodicals, confections, tobacco products, articles dispensed automatically or in containers or wrappings in which placed before receipt by vending stands, and such other articles as may be approved by GSA and the interested State licensing agency for the blind.

(2) The interests of GSA require that articles sold be limited to those which can be vended satisfactorily by a blind person, in the space and with the facilities which can be made available. They also will depend upon any other local factors which may be applicable. Figure 17-68 lists articles typical of those which blind persons may be authorized to sell, so far as space and other factors will permit.

Proposed additional categories of items shall be taken up with the Central Office before their sale is authorized by the region.

(3) No article shall be sold by the blind in violation of an existing contract with others. Foods, other than those described in figure 17-68 and par. 70 below, shall not be sold by the blind; provided, that this shall not require modification of existing operations by the blind. See par. 71, below, with reference to vending machines which will be supplemental to a vending stand operation.

The following items are typical of articles which may be authorized for sale by blind persons licensed under the provisions of the Randolph-Sheppard Act. See par. 68, above, for applicable restrictions and limitations.

1. Cards, greeting.
2. Films and film service.
3. Newspapers, periodicals, and books.
4. Stationery.
5. Tobaccos and smokers' accessories.
6. Fruits, fresh.
7. Soft drinks in original containers, including milk and fruit juices.
8. Commercially prepackaged items such as confections (candies, drops, gums, mints, and nuts), cookies, ice cream, and potato chips or similar snacks.
9. Small personal accessories and supplies such as bill or key folds, combs, brushes (tooth, hair, or clothes), nail files, scissors, handkerchiefs, pens, pencils, razors, razor blades, sewing supplies, hand soaps, shoe polish, shoe strings, cleansing tissues, cosmetics, dental cream, hair nets and pins, watch bands, etc.
10. If specifically requested by a responsible official of a tenant agency, pies, sandwiches, and cakes which have been prewrapped off the premises in individual sales portions under sanitary conditions satisfactory to the local health authorities.
11. Coffee and hot chocolate dispensed by vending machine, if requested by the building tenants, and if necessary space and facilities can be made available without serious difficulty.

Although it is preferable that coffee and hot chocolate be dispensed by vending machines, there may be occasions when it must be prepared and dispensed by other means. In that event, the blind operator shall not prepare or serve it, nor handle the utensils used in connection therewith.

Figure 17-68. Articles which may be Authorized for Sale by Vending Stands Operated Under the Provisions of the Randolph-Sheppard Act.

PBS F 5800.18A
December 18, 1963

69. FOOD SERVICE OPERATIONS.

a. Selection of Operator. Each food service established hereafter shall be provided by an experienced and qualified food service operator, unless assigned to the blind as permitted in par. 70, below. Selection shall be on the basis of competitive bidding, or by negotiation when permitted by current laws and regulations. Sales may include non-alcoholic beverages, ice cream, and commercially prepackaged snacks, such as cookiee, potato chips, etc., even though such items are sold by a blind person in the same building. Tobaccos and confections also may be sold if the food service is remote from a vending operation by the blind or if permitted by par. 70, below, or by pars. 125 thru 129, below. Otherwise, sales shall be limited to food and beverage items.

b. Uniformity of Service. When food services are required at several locations in the same city, the region shall consider the advisability of a single contract for all operations, and the practicability of selling at uniform prices at all locations.

70. COMBINED FOOD SERVICE AND VENDING OPERATIONS.

a. Combining. Should there be insufficient business to support two required services, one for the sale of foods and beverages, and the other for the sale of articles listed in figure 17-68, the services shall be combined, and a concessionaire shall be chosen in the manner described either in par. 68 or par. 69 above. In making this choice, due consideration shall be given to provision of the required services under the authority of the Randolph-Sheppard Act.

b. Blind Sales. If the operation is conducted by a blind person, under the provisions of the Randolph-Sheppard Act, the service shall be limited to the sale of items approved by GSA, and those which a blind person, with the aid of a sighted assistant, can provide in a safe, efficient, and sanitary manner. As far as practicable, foods and beverages shall be wrapped, packaged, or bottled off the premises, in individual sales portions under sanitary conditions satisfactory to the local health authorities.

71. VENDING MACHINES.

a. General. Responsibility for the installation and operation of approved vending machines shall be assigned either to State licensing agencies for the blind, other concessionaires, or Government

PBS P 5800.18A
December 18, 1963

employee groups, according to the criteria outlined below. When this is not possible, contracts may be entered into directly with vending machine companies, for the installation and operation of required machines.

b. Disposition of Proceeds. When vending machines are installed as an adjunct to a vending stand operated by the blind, proceeds from the machines shall go to the blind vending stand operator. Proceeds from other vending machines shall accrue to the concessionaires or organizations by whom they are installed and operated where appropriate or, in the case of direct contracts with vending machine companies, shall be deposited in the U.S. Treasury as Miscellaneous Receipts. The proceeds shall be considered a part of the gross revenue of those who install and operate the machines and concession contracts shall specify the percentage of such revenue or other remuneration, to be paid to GSA.

c. Assignment to the Blind in Post Office Buildings.

(1) When GSA approves the installation of vending machines in post office workrooms, swing rooms, and locker rooms, in a building containing a vending stand operated by the blind, regulations of the Post Office Department shall determine whether the income from the machines shall be assigned to the blind or to others.

(2) In making such determinations, it is the policy of the Post Office Department to consider the proximity of the machines to, and their competition with, vending stands operated by the blind; the extent to which vending stand operators already conduct vending machine operations in the building involved; and the extent to which vending machine operations are conducted in the building by others.

(3) When GSA approves a vending machine installation in a post office workroom, swing room, or locker room, the Buildings Manager (or other designated GSA official) shall work with the State licensing agency for the blind, if appropriate, to determine who shall provide the machines and to arrange for their installation. Vending machines in other parts of post office buildings shall be assigned in accordance with other provisions of this section.

CHAP 17
PAR 71

PART 11. PREPARATION AND PROCESSING OF PERMITS

82. OPERATIONS UNDER THE RANDOLPH-SHEPPARD ACT.

a. Form to be Used. The latest revision of Department of Health, Education, and Welfare Form No. 8-B1-1, Application for Authority to Establish a Vending Stand on Federal Property, figure 17-82, shall be used to authorize the establishment of vending stands and the installation of vending machines under the provisions of the Randolph-Sheppard Act. When completed, it constitutes an application from a state licensing agency for the blind, for authority to establish a vending stand or install a vending machine on Federal property.

b. Preparation of Form 8-B1-1.

(1) Except in the space for approval by GSA officials, Form 8-B1-1 will be filled out by the interested state licensing agency for the blind: provided, that the region shall type the following language on the form, above the space for approvals, if a sighted assistant is to be employed as provided in par. 70, above.

"A sighted assistant will be employed to prepare and serve (list items to be served by sighted assistant), and to clean and sterilize utensils and equipment used in connection therewith."

(2) Building managers and other interested regional officials shall see that the information shown on the form is clear and complete. Articles to be vended shall be itemized completely and shall be described specifically. The number and location of each type of vending machine, and the articles which each will vend, shall be clearly stated. An original and at least three copies of each application shall be prepared for distribution as indicated in subpar. 82c (5), below.

c. Processing of Form 8-B1-1.

(1) The method of processing Form 8-B1-1 will depend, to some extent, upon the GSA organization at the location involved. It is suggested that, in a location remote from

PART 16. STATUS OF EXISTING CONCESSIONS

125. GENERAL. In buildings controlled by GSA there are existing concessions which do not conform completely with the policies stated in this handbook. Some were established by GSA under policies which since have been changed. Others were established and are still controlled by tenant agencies which previously had jurisdiction over the buildings involved. Such concessions shall be made to conform with current GSA policies to the extent indicated below.
126. VENDING OPERATIONS BY THE BLIND.
- a. Responsibility of Region. The region shall assume the usual responsibilities and authority of a custodial agency with reference to vending stands operated under the provisions of the Randolph-Sheppard Act, in buildings which have been or may be transferred to the jurisdiction of GSA.
 - b. Assignment of Locations. Subject to the provisions of existing contracts, and at the request of the State licensing agency in each case, vending stand locations for vending only the types of articles described in par. 68b, above, shall be re-assigned to the State licensing agency by the regional office for the operation of vending stands under the program for the blind.
 - c. Relocation of Stands. It is desirable that existing vending stands in post office and other lobbies be moved to locations where they will not cause crowding and congestion in main traffic areas; and that all existing vending stands be made to conform otherwise with the requirements stated elsewhere in this handbook. However, stands shall not be moved, nor shall the articles sold by any stand be reduced, without the concurrence of the State licensing agency for the blind, unless the situation is such that corrective action is essential for the maintenance of satisfactory conditions and the provision of overall concession services of a satisfactory type.
127. VENDING MACHINES. Subject to the terms of existing contracts, vending machines shall be reassigned as necessary to meet the requirements of par. 71, above.

Mr. MILLENSON. The other question I have is for anybody who might be able to respond to some information in the testimony presented to us by Mr. Eudey of the Post Office Department. He referred to a new manual which they have just published called "Operating Instructions for Food Service Employees," and referred to especially paragraph 230 of that handbook in which it is indicated, as I have read it, that a "proportionate" income for a blind vending stand is equal to grade 5, the highest step in grade 5. What I would like to know is this, periodically under law there are increases in pay for Federal employees, including of course, increases for grade 5. At that time, when these Federal employee increases come along, is there an adjustment made in the income for blind vending stands commensurate with that increase which Federal employees receive? Do any of you gentlemen have some knowledge of that?

Mr. TAYLOR. I cannot answer for the entire Nation. I can speak from my own experience and that is no adjustment is made. As a matter of fact you have to fight and struggle and be involved in a long drawn out hassle to get any of that money assigned. That is not something that is done automatically and with good grace.

Mr. MILLENSON. Is there any other comment from any of you other gentlemen or Mrs. Perzentka?

Mr. SEGAL. I would just like to agree with it.

Mr. McDANIEL. There are many locations in the Postal Service property where there is no sharing of money even though they are not averages of GS-5.

Mr. MILLENSON. Do you know of any adjustment they make? Do the Federal employees get their salary increased and then the agency comes in and says we are now going to let you have more money?

Mr. McDANIEL. I have not heard of any such adjustments. Most of what we hear about is the other way.

Mr. TAYLOR. May I make only one comment that I believe is really relevant to this issue. The vending machines which employee associations operate frequently sell merchandise to them at less than competitive prices and particularly in some of the medium-sized Federal buildings and installations. One device that is readily available to the committee which runs the machines is that they can simply set prices so that there is not any money to share if you get too pushy about getting a piece of it. This is a matter that has confronted a number of us at one time or another which we have sought to gain implementation of this referred to policy.

Mr. HUMPHREYS. To proceed then with Senator Randolph's questions, and thank you very much for your answers, the questions that I have are directed to the panel generally, and if anyone wishes to volunteer, you may. What do you consider to be the foremost problem facing the Randolph-Sheppard program?

I think all of you have alluded to that. Can you indicate what that prime obstacle is, if there is one main obstacle to be overcome?

Mr. McDANIEL. I think there are two, aside from the substantive changes. One is taking away from the heads of agencies and departments the power to decide whether there is going to be a stand and what it can sell and the other is resolving of the vending machines' commissions—those two. If you lose on those two, you lose the war.

Mr. SCHLOSS. I would add a provision and that is provision for sites.

Mr. REED. I would like to say too, that this case-by-case handling of stands by GSA is winning the war by attrition. Every time they assign us a new location, it is one that is limited or restricted. The terms we can sell under are restricted and various other aspects of the operation are restricted. They, of course, have the power to do this if we do not regulate this carefully.

Until we can expand our facilities, what they are simply doing is giving us dry stands or whatever type or semiwet and these are limiting the ability of the operator to have a viable and economic unit there. He just has a stand and they can say you have this location but you are not able to make a living wage at it.

Mr. SEGAL. I would like to add some things to that. I believe that this area of locations is where we are really having the problem and that is, that the Administration—and I believe specifically the Department of Welfare, has not taken the congressional intent and the amendments of 19 years ago. The Department was given the job to make surveys of Federal buildings to obtain locations. I submit the only way we get any locations is if GSA, the Postal Department, the Military Establishment, come to the State agencies and say, "Here it is, do you want to bid on it"?

Most State agencies that I know of do not actively seek Federal locations. They adopt the attitude we have to use a soft sell and hopefully we will get something.

In Pennsylvania, with an awful lot of Federal locations, we have never had more than 20 stand locations. With one person in RSA who has other duties in terms of supervising of workshop programs, So we have less than one person on the Federal level who involves himself in the Randolph-Sheppard program. We are just not going to grow if this is what continues and we see an Administration fighting the opportunity to pick up 11 employees to help run this program only because they are losing some kind of prerogative. I believe in a society where the Government is to serve the people, prerogative is about the weakest thing to lean on, yet an unresponsive Government today, on all levels, seems to lean on that prerogative like a drunk uses a lamp post; instead of using the lamp post for illumination he uses it to hold himself erect.

Mr. HUMPHREYS. Thank you very much.

Mr. TAYLOR. We believe the compelling issue today concerning all of us concerned with the Randolph-Sheppard program has to do with what happens to money derived from vending machines and it is being diverted to employees' groups and associations and cafeteria operations.

The services which can be provided by vending machines and vending stands under the Randolph-Sheppard Act are essential to the operation and the service needed by Federal employees in Federal buildings and installations. If we can successfully pass the assignment provisions, we will then find that those vending machines will more and more be operated by blind persons, not that blind persons will merely be receiving the commissions, and we will have removed a major obstacle to the expansion of the program by the approval of permits and far broader lists of articles to be sold.

It is important to note, I believe, that the definition of a vending stand on Federal property shrinks or expands depending on how much

help you can get to expand the definition. There are cafeterias being operated in Federal buildings as Randolph-Sheppard cafeterias but one will be readily told they do not come within the definition of cafeteria under other circumstances and there are some excellent cafeterias in Federal buildings run by blind persons and extremely well managed and providing high-quality foods at very reasonable prices.

This is not a matter with which we have no experience and it is not a matter with which the Federal agencies have no experience.

We go on to say that it is important, of course, that the definition of a vending stand be expanded and that the language which was in the act when it was passed a number of years ago regarding the articles to be sold be updated. That is important but we could get that at least substantially by interpretation if we can settle the question of whether this program is really going to provide jobs for blind people or supplemental income to employees of recreation and welfare associations and to supplement cafeterias.

Finally, I would like to suggest that the committee secure from the Department of Health, Education, and Welfare and make it a part of the record, the information regarding the schedule for State set-aside charges. I think in some States if a blind operator earns more than \$9,000 a year, the State licensing agency, as a part of the set-aside, simply takes 50 percent of it. If you consider the fact that he must pay social security taxes, income taxes, and some other regular tax charges out of what is in effect his net income, there is relatively little incentive to try to get above \$9,000 a year. Most of it, if you get it, is taken away.

Mr. HUMPHREYS. Thank you.

It was alluded to in the testimony that there is a reason for retaining certain portions of vending machine income. Why in your opinion should blind vendors and State agencies be entitled to vending machine income on Federal property where there is no blind vendor and the revenue potential would not support a blind vendor?

Mr. TAYLOR. I will respond first. The question raised here is that a vehicle is afforded if the department head can determine whether or not the location can afford a vending stand. In that case, he can determine that it cannot and therefore there will be vending machines operated by some other route and there will be employee benefits derived from that.

The other factor, I think, which we need to look toward and which is occurring in much of the country, is that blind persons are increasingly involved in the operation of vending machine routes which include not only Federal buildings but other public buildings and facilities in the private sector. This opportunity could become the keystone around which a successful vending machine route could be established and provide another job for another blind person.

Mr. HUMPHREYS. Any other response to that question?

Mr. McDANIEL. I would like to say I think it is a question of legislative policy. It was said 21 years ago if the money does not go to the blind licensee, it should go to the U.S. Treasury. Nobody has enforced that. So if Congress, in furtherance of this program, believes that it should be expanded—and I think it does—wants to use that as a source of funds for this purpose, it seems to me that it just becomes a matter of resolute policy. It could be done by direct appropriation from the

Treasury but this is a source which is presently going to people who are, in a sense, poaching on the Federal preserve and illegally so, and it seems to me that it is certainly within the purview of Congress to direct that to congressionally approved purposes.

Mr. HUMPHREYS. In line with what you have said, how would you react to the argument that if you do that with respect to vending machine income, you are singling out a particular segment of the Federal employees, or a particular segment of their potential income, or a particular segment of nonappropriated funds, when you do not treat other nonappropriated funds in the same way? How would you react to that?

Mr. McDANIEL. I react in this way. First off, their receiving the money is contrary to title 18, section 209, and the people who pay money to them are violating the Criminal Code, and if the Department of Justice would do its duty, it would prosecute those people. Singling them out could only come about by virtue of the fact that by negotiation or other ways, they have been able to make these deals to get the money.

Mr. SEGAL. I would like to say where the vending machine money is going to the cafeterias, despite the fact that GSA denies there is a subsidy, there really is a subsidy. In effect this vending machine money is being used to keep cafeteria companies in business and it is really allowing them to provide luncheons for their customers at sandwich prices, and the vending machine subsidy is keeping the cafeteria company alive. I suggest the real reason the cafeteria companies are having trouble staying in business is because of their standardized unimaginative practices, while Randolph-Sheppard vending stands in most States are independent businessmen, struggling to make a living, and are providing a more imaginative, creative, and stable source of vending to their customers.

Mr. HUMPHREYS. What is your view of the potential hazard a blind vendor might encounter in a post office work area?

Mr. SEGAL. I do not think there are any hazards. You know they are doing it for our help, our good. Well, we have been paternalized and protected to the point where 67 percent of us are unemployed, most of the rest are underemployed, and for our own good there are the paternalistic people in our society who want to continue this kind of nonsense.

Mr. SCHLOSS. That simply is a smoke screen. Blind persons have worked in much more hazardous situations without problems.

Mr. REED. Once a blind person is familiar with what the hazards are, he can avoid them.

Mr. TAYLOR. At the same time, I think it is important to note there really are not many hazards in post offices; they just do not exist. Post office facilities are among the safest around. Probably if there are any hazards, there are probably as many hazards operating the vending machines as there are in getting around the post office, but probably he faces whatever hazards he faces in getting to and from the post office with the traffic and most of us get around over the country. That just is not the real issue.

Mr. HUMPHREYS. Thank you. Next question: Do you agree that arbitration cases for which a panel would be convened by the Secretary of Health, Education, and Welfare should be limited to matters of

major importance in order to avoid protracted and expensive proliferative arbitration cases?

Mr. REED. If by that you mean that the importance must be general to a whole lot of people before the thing can be arbitrated in the manner specified in this bill, I would disagree. I would say what is important to one person could be of major significance. In other words, if it is something that is going to wind up taking the job away from the blind operator or something like that, I feel that is of major importance, so if you mean how much it affects the one person if it has to be major in its effect on the operator, I agree but if you mean it must affect him or else it cannot be arbitrated, I would respectfully disagree.

Mr. HUMPHREYS. My intention was with respect to the specific operator and the effect it would have on him.

Mr. REED. Then I would say yes.

Mr. TAYLOR. I believe I can shed some light and add some information here. I am from the State of Iowa which has a very similar arbitration procedure with respect to grievances between a vending stand operator and the State licensing agency except that it is in effect a local arbitration agreement. One person would be selected by the State licensing agency, one by the vending stand individual, and the third selected by those two.

In the 14 years we have not had an official arbitration. I think that is likely to be the case most of the time simply because if you establish the machinery which affords a really open and free opportunity to settle problems on their merits, you diminish the number of problems which arise. The present system is really a very one-sided system as it exists in most State licensing agencies.

The operator by and large does not even know that the appeals procedure exists, but if he does not find out about it, what he finds out about it is the same people will be holding the hearing who made the decision about which he is disagreeing.

On the Federal level I think we have a similar kind of thing. Although there is a so-called appeals procedure now, it is very difficult and it also is one-sided. That is, the department is the person against whom the grievance is taken and it serves as both judge and jury and as one who has had some experience with that process, I can tell you that the deck is stacked against the appellant in this case. I think again, though, there would be relatively no instances in which the procedure would be used even between State licensing agencies and Federal departments and agencies because availability of the machinery would largely obviate the need to take an appeal to that point.

I do believe that for practical reasons an administrative review should in any case precede the impaneling of the arbitrants. That is the easiest way and if that does not resolve the matter, then I think it is important to have the panel impaneled and a hearing held and a decision made.

Mr. PERRY. Mr. Chairman, to lend credence to this, a specific example has happened right here in the District of Columbia. Back in 1969 the operators had a disagreement with their licensing agencies. We asked them for arbitrary hearing procedure. This is 1973, and just last spring we finally had one of the hearings that is to come forth and it is a cumbersome one we have been dealing with recently. It is that type of thing.

Those persons who made the original decision also sit in judgment on the ones to be made and this to us is no fair hearing procedure. As a result, we have had to go into litigation, so once again this is essential to the operators of this Nation.

Mr. HUMPHREYS. Any further brief response?

Mr. McDANIEL. Just one point. Something I think the agencies in the Federal Government have not thought of is that this arbitration proceeding which is set forth and to which they object, is the only provision in the bill which gives them any right to judicial review if they are not satisfied with the rule so they are advocating something which might deprive them of a very valuable right if they should succeed in getting rid of this provision of the bill.

Mr. HUMPHREYS. One final question. Do you have an opinion on the best formula for agency levies for set-aside funds, or do you agree with what Rehabilitation Services Administration witnesses suggested, that a study be conducted?

Mr. McDANIEL. I do not suppose anybody is opposed to a study but in the testimony they gave the other day, they indicated pretty affirmatively that if they were granted that authority they would impose a set-aside on all programs in all the States which I think is not clearly spelled out in the bill.

I think those of us around the table probably ought to talk about that sometime soon.

Mr. REED. I certainly think that somebody—I do not remember which one of the people testified—that there should be a minimum. I feel there certainly should not be if a State can run its program and not charge any levy, that is fine. I do not see that that can be done very often but where it is done we certainly are not going to interfere with that because the idea is to get as much of the program money into the pockets of blind people as possible.

But I was about to suggest that we use the present idea that whatever is maximum certainly we should not go above that, but after hearing some of the testimony this morning where we hear that they are already confiscatory in some instances. I probably would back down off that, and certainly say that maybe in the District of Columbia, where we have no input, no matching Federal funds or money from any source except from the program itself, we do not use anything but program money and we use right now our set-aside 9.5 percent. It is my feeling therefore, that ought to be a maximum.

Mr. TAYLOR. Mr. Chairman, let me respond to this if I may. When we talk, I would assume that references in the bill—and I do not remember exactly what that is—to minimum standards I hope would not require that those 16 or 17 States which do not have a set-aside would be compelled to establish one. Rather I would think that minimum standards in this instance ought to relate to the maximum amount a State licensing agency could collect in the form of set-aside funds.

Let me observe here that in most of the types of operations which are involved in the Randolph-Sheppard program, the net profit to an operator generally runs in the neighborhood of 20 percent of gross sales. If you impose a 10 percent set-aside levy on gross sales, then you in effect have a levy which is 50 percent of net and that seems to me to be a pretty high fee to charge.

There are moreover, vending stands which have paid in the form of set-aside pay in annually as much as it costs to establish them and they

do that year after year. I have difficulty finding equity in that system. It seems to me that what we need to have is a ceiling on set-asides and in order probably to avoid working a hardship on some of those State agencies which have extra, what I regard as excessive set-aside charges already, that ought to be a gradually decreasing amount which would allow some time for adjustment and accommodation to new circumstances but which would work toward reduction of set-aside charges and put that money back in the hands of the blind operators who have earned it.

I guess if I were to suggest a set-aside, I would like to see a minimum figure of something in the neighborhood of \$2,000 per month gross sales without any set-aside charge and in any event, have a set-aside charge which does not exceed for the four purposes outlined, a total of 5 percent on gross sales, which sometimes is 25 percent roughly of net profit.

Mr. SEGAL. In Pennsylvania we have run a rather large program, second or third largest in the country, with a set-across on gross sales of maximum of 4 percent. Our set-aside fund may not exceed \$150,000. When it gets near it, the operators are assessed a lower rate. Nobody has paid the 4 percent for more than 10 years. It is a sliding scale based on your gross sales. Some stands pay as little as one-quarter of 1 percent and currently nobody is paying more than $3\frac{1}{2}$ percent.

We have around \$100,000 currently in the revolving fund. We are opening up about 12 new stands a year and renovating about 12 old stands a year. Our moneys are only used for one purpose and that is equipment, installations, and maintenance and we do not use it for the other three purposes and I think that something in the neighborhood of 4 percent if the programs are run with some kind of business wisdom is about the maximum.

Mr. HUMPHREYS. Thank you all very, very much for your very helpful testimony and it will all be carefully considered by the subcommittee.

Our next and final witness will be Vincent Connery, president of the National Treasury Employees Union, accompanied by Jerry Klepner.

Mr. Connery, we are under some time restrictions, unfortunately, as I believe we were last year when you testified. It always seems to happen, but if you will please summarize your statement, it will be carefully scrutinized by the committee.

Mr. CONNERY. I would be happy to, Mr. Humphreys.

STATEMENT OF VINCENT L. CONNERY, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, ACCOMPANIED BY JERRY KLEPNER

Mr. CONNERY. My name is Vincent L. Connery. I am president of the National Treasury Employees Union, formerly known as the National Association of Internal Revenue Employees. NTEU is the exclusive representative of more than 80 percent of those Treasury Department employees who are eligible to be represented by a union.

We represent more general schedule employees in a single department than does any other Federal employee union. NTEU is also a member of the Coalition of American Public Employees, an organization composed of the National Education Association, the American

Federation of State, County, and Municipal Employees, the International Association of Fire Fighters, and ourselves. Together, the member unions of the coalition represent over 175,000 Federal employees and 4 million public employees.

I will go to page 8 of my statement and would request that the entire statement be included.

Mr. HUMPHREYS. It will be included as though read at the conclusion of your testimony.

Mr. CONNERY. NTEU is a union, and very decidedly so. We provide those we represent with meaningful benefits obtained through the collective-bargaining process after long and gruelling hours of negotiations. We have made remarkable strides considering the present restrictions on collective bargaining in the Federal sector. NTEU has negotiated the most comprehensive and farsighted agreements in the Federal Government; but we have never sought to prey upon the blind. Unlike the postal unions, which have far greater collective-bargaining rights than we do, not once have we ever attempted to secure improved benefits for our members by foreclosing the blind. Such tactics are too repugnant to our membership and officers to even be considered.

For us, there is no balancing of interests between the needs of the blind and those of the welfare organizations or the unions; the scales are unalterably weighted in favor of those without sight. Whether a million dollars or a single dollar is denied the blind because of the activities of employee welfare organizations is of little consequence in judging the wrongfulness of their actions: If 1 cent is taken from the visually handicapped that is 1 cent too much.

We are, after all, talking about a matter of principle as well as money. Either one agrees that every opportunity should be afforded those without sight or one does not. Either one recognizes that the Randolph-Sheppard program must be strengthened in order to provide additional employment for the blind or one does not. Our union believes it is imperative that new employment opportunities be created for the sightless and that swift and decisive action be taken to improve the Randolph-Sheppard Act. Such is the singular goal and effect of the legislation which is pending before this subcommittee.

S. 2581 would simply make certain that the Federal Government comply with the objectives that Congress first enunciated in 1936 when it adopted the Randolph-Sheppard Act. By requiring that one or more vending facilities be established on Federal property where feasible, and that all vending machine income obtained on Federal property be assigned to the blind or the program, Congress will be assuring that the Federal Government abides by the intent of the original act: To provide employment opportunities for the blind.

Not only is the proposed legislation soundly drafted, it is, in our opinion, more than fair. Even though we would prefer that all income from vending machines be immediately assigned to those who have suffered such grave injustices over the years, S. 2581 provides a maximum 3-year grace period for groups who presently own or lease vending machines. It also permits owners or lessors of any machine for which contracts expire or depreciable life remains after the 3-year period to be compensated for the fair market value of the equipment by the Secretary of the Treasury. In effect, S. 2581 is much

more considerate of the employee welfare organizations than they, in turn, have been of the blind.

Much has been said in prior years of the alleged devastating effect on the morale of the Federal work force of requiring the exclusive assignment of vending machine income to the visually handicapped. I, for one, place absolutely no credence in these assertions. At our last appearance before this subcommittee, we were challenged by a representative of a postal service union who insisted that their members demand the continuation of welfare association concessions. Since that time, I have traveled extensively throughout the country as is my normal practice, and not one of the thousands of postal and Federal employees I have spoken with has ever expressed the desire to deny the blind of a source of earned income.

Taken all in all, the welfare organizations are not of such importance to Federal and postal employees that they should be permitted to hamper the blind in their efforts to earn a living. To continue to allow such groups access to income which should be used to promote jobs for the sightless, cannot be tolerated under any circumstances. For far too long, postal and Federal management, with the encouragement of some Federal and most postal employee unions, have been financing benefits for themselves and some employees by precluding the blind from vending machine income.

We provide in our union members with the same benefits and more through their union dues: not by usurping what rightfully should be accruing to the blind. There is no reason why other Federal and postal employee unions cannot follow our example. In point of fact, because of their more comprehensive collective bargaining rights, the postal unions could negotiate many of the benefits which are currently being funded by vending machine income in their contracts with postal management.

In sum, we can find absolutely no justification for the present system which allows welfare organizations to even further handicap the handicapped. We cannot overemphasize our support for S. 2581 and our hopes for its early enactment. On behalf of the union I represent, please accept our thanks for this opportunity to present our views on the proposed amendments to the Randolph-Sheppard Act. If there are any questions, I will be glad to answer them at this time.

[The prepared statement of Mr. Connery follows:]

Statement of Vincent L. Connery,
National President
National Treasury Employees Union

Before the Senate Committee on Labor
and Public Welfare, Subcommittee on
the Handicapped

Honorable Jennings Randolph, Chairman

Washington, D. C.

November 19, 1973

My name is Vincent L. Connery. I am President of the National Treasury Employees Union, formerly known as the National Association of Internal Revenue Employees. NTEU is the exclusive representative of more than 80 percent of those Treasury Department employees who are eligible to be represented by a union.

We represent more General Schedule employees in a single Department than does any other Federal employee union. NTEU is also a member of the Coalition of American Public Employees, an organization composed of the National Education Association, the American Federation of State, County, and Municipal Employees, the International Association of Fire Fighters, and ourselves. Together, the member unions of the Coalition represent over 175,000 Federal employees and four million public employees.

Two years ago, we sat before this Subcommittee and expressed our unequivocal support for legislation which would prevent the erosion of one of the most meaningful programs that Congress has ever enacted for enabling blind persons to become self-supporting citizens. Our firm belief in the necessity for legislation to strengthen the Randolph-Sheppard

Act has, if anything, heightened with the passage of time. Today, we are more convinced than ever of the need for enactment of a bill which would markedly improve employment opportunities for the visually handicapped.

In 1936, with the passage of the Randolph-Sheppard Act, Congress determined that the blind should be given preference in the establishment of vending stands and created a program for achieving this goal. Since the inception of the Randolph-Sheppard program, the number of blind employed as operators has risen to 3,583 men and women working in more than 3,000 vending stands throughout the country. Because of the Randolph-Sheppard program people who otherwise would have been confined to permanent unemployment are able to earn a living for themselves and their families. Literally thousands of blind persons have been able to gain dignity and self-satisfaction in a life which could have been filled with emptiness and frustration.

Yet, despite the laudatory purpose of the Randolph-Sheppard program and its proven effectiveness as a source of gainful employment for the blind, the record of the

Federal government has been woefully remiss. At the end of fiscal year 1972 there were only 878 vending stands operated by blind vendors on Federal property--three fewer than at the beginning of that same year. As Senator Randolph pointed out in a background statement accompanying the introduction of S.2581 on October 13, 1973, "Increases in the total number of vendors and stands has resulted from active State, local, and private industry placement of blind vendors, not from action from the Federal government."

Our Federal government, which should provide the leadership in such a noble effort, has, all too often, spurned the visually handicapped and deprived them of even the opportunity to become self-sufficient. For all the concern expressed over increasing welfare rolls and the urgency of finding jobs for the handicapped, the Federal government has done little to promote employment for the blind under the Randolph-Sheppard program. In many instances, blind vendors have been excluded from Federal buildings. In others, the areas in which they are permitted to locate stands have been greatly restricted and they have been forbidden from selling many items.

In its "Review of Vending Operations on Federally Controlled Property," the General Accounting Office vividly underscored the problem. Without belaboring this Subcommittee with a statistical repetition of the GAO report, we think it important to note a few of its salient facts and observations. In the portion of its review dealing with the Department of Defense, the GAO observed that while vending operations on property controlled by the Defense Department are extensive, "blind vendors are limited at some locations, and other locations have none at all. This has occurred because DOD implements regulations in a way which supports and encourages vending operations that benefit the recreation and welfare of military and civilian personnel and gives little consideration for the blind."

To further dramatize the extent to which blind vendors have been excluded from Defense Department installations, the GAO reported that the annual gross sales from vending operations at the seven locations it visited were over \$12.8 million. Of this amount, blind vendors' gross receipts were about \$230,600, while various nonappropriated

fund organizations, including employee welfare associations, had gross sales of \$9.3 million. In addition, these organizations earned \$900,000 in commissions from vending machines to bring their total gross receipts to \$10.2 million. Commercial vending concerns had gross sales of \$9.3 million. In effect, at the installations surveyed by the GAO, blind vendors received less than 2 percent of the gross receipts from vending operations.

Turning to postal service facilities, the GAO explained that "although blind vendors operate stands in some post office lobbies, most vending operations at postal facilities are located in or near work areas and are controlled by employee welfare organizations In addition, postal officials have interpreted Postal Service regulations in a manner that has not been advantageous to the blind, and regulations on assigning vending machine income to blind vendors have not been applied consistently."

In its survey of 291 major postal facilities, the GAO found that employee associations, which are sponsored in large part by AFL-CIO unions, were "controlling one vending stand and 2,873 vending machines." Blind vendors were operating 68 vending stands at these locations. Although blind persons were operating many more vending stands

than the employee welfare associations, the associations were controlling nearly all the vending machines at each postal facility that were not part of a vending stand.

Employee welfare associations at these facilities had annual gross receipts of \$2.8 million, of which approximately \$1.6 million represented net income. The largest single use of this income, the GAO noted, is \$646,904 for "recreation and trophy costs." Most of the remainder was spent for "parties, gifts, remembrances, coffee, and turkeys." A mere \$86,801, only five percent of the total income, was assigned to blind vendors.

With regard to other non-postal Federal installations, the GAO stated that "although the blind-vendor program operated under generally favorable circumstances . . . some activities compete with the blind for vending machine income as an inducement to "maintain good cafeteria service" and minority business enterprises have been permitted, under Executive Order 11625, to operate vending facilities which divert revenue from the blind-operated stands. To a lesser degree, employee welfare organizations are also

competing with the blind for vending stand income.

Of course, as a Federal employee union, NTEU supports all responsible efforts to insure the best possible food service at the lowest available price for Federal workers. We also believe that the Federal government should foster and promote minority business enterprises to a much larger extent than it has in the past. But we do not approve of a government policy which can only be interpreted as "robbing Peter to pay Paul." We are convinced that better cafeteria service can be attained and that minority businesses can be established on Federal property without depriving the blind of job opportunities that Congress sought to provide them more than 37 years ago.

What we cannot countenance, however, are the activities of the Federal and postal employee welfare organizations which, because of their greed, have seriously hampered the blind in their efforts to secure gainful employment. We never have nor will we ever seek to limit the employment opportunities or the income of the visually handicapped. We find it unconscienable that any union or group of Federal or postal employees would deny the blind the opportunity to earn a

decent living simply to provide themselves with such frivolities as turkeys, gifts, and trophies.

NTEU is a union, and very decidedly so. We provide those we represent with meaningful benefits obtained through the collective bargaining process after long and greulling hours of negotiations. We have made remarkable strides considering the present restrictions on collective bargaining in the Federal sector. NTEU has negotiated the most comprehensive and far-sighted agreements in the Federal government; but we have never sought to prey upon the blind. Unlike the postal unions, which have far greater collective bargaining rights than we do, not once have we ever attempted to secure improved benefits for our members by foreclosing the blind. Such tactics are too repugnant to our membership and officers to even be considered.

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vending machine income obtained on Federal property be assigned to the blind or the program, Congress will be assuring that the Federal government abides by the intent of the original Act: to provide employment opportunities for the blind.

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In sum, we can find absolutely no justification for the present system which allows welfare organizations to even further handicap the handicapped. We cannot over-emphasize our support for S. 2581 and our hopes for its early enactment. On behalf of the union I represent, please accept our thanks for this opportunity to present our views on the proposed amendments to the Randolph-Sheppard Act. If there are any questions, I will be glad to answer them at this time.

Mr. HUMPHREYS. Thank you. I thank you on behalf of the chairman and members of the subcommittee for appearing before us today and your testimony has been very helpful. I have no further questions. On behalf of the chairman, I want you to adjourn the hearing, subject to the call of the chairman. There will be one more day of hearings to be announced subsequently. Thank you all very much.

[Whereupon, at 1:50 p.m., the hearing was adjourned.]

RANDOLPH-SHEPPARD ACT FOR THE BLIND AMENDMENTS OF 1973

THURSDAY, DECEMBER 6, 1973

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:07 a.m., in room 4232, Dirksen Senate Office Building, Senator Jennings Randolph, chairman of the subcommittee, presiding.

Present: Senators Randolph and Stafford.

Staff present: Robert R. Humphreys, special counsel to full committee; Roy H. Millenson, minority professional staff; and Michael A. Francis, legislative assistant to Senator Stafford.

Senator RANDOLPH. Ladies and gentlemen, good morning. This is third and final day of the hearings on S. 2581, the amendments to the act in which we all have an interest.

As many of you know, I have been attempting since 1969 to secure changes in the law which will permit a healthy, wholesome and vigorous expansion of the Federal-State blind vendor program.

It is my earnest hope that these changes will be made during the 93d Congress. I believe the Senate can and will adopt amendments to the Blind Vendor Act early in the second session of this Congress.

I pledge myself to do everything that is right to bring that into being. I pledge that not to others. I pledge it to myself, and hopefully we will have cooperation within the Congress toward that worthy end.

I believe the Senate can and will adopt the amendments to the Blind Vendors Act early in the session when we return in January of next year.

I expect close cooperation in this effort by the appropriate leaders in the House of Representatives who have jurisdiction in this matter and who are cognizant of the developing facts.

Although we still do not have an accurate assessment of the amount of vending machine income derived on Federal property, we have amassed a wealth of information on the operation of the blind vending program from the crucial, vital report published by the General Accounting Office, and from the testimony of the 15 witnesses who have appeared so far in these hearings. Today we will listen to the representatives of four Federal employee union organizations.

My hope is that their schedules may have permitted them to listen to the 15 witnesses whom I have mentioned who have preceded them during the 2 days of hearings.

It is my sincere hope that we can avoid, as I have said so often in the past, any confrontation or polarization of those who are interested

in this bill. It is the wish of the chairman of the subcommittee to have that attitude of help and cooperation as we develop this legislation which will enable thousands of our blind citizens beyond the 3,500 plus that we now have gainfully employed through their own leadership efforts to have meaningful and productive employment.

I welcome our witnesses today, and I ask you to arrange yourselves—and you are already arranged—in a panel at the table.

If you would identify yourselves and the procedure by which your testimony is to be heard, that will be completely compatible with the chairman's wishes. Please have your spokesman start.

STATEMENT OF PATRICK J. NILAN, LEGISLATIVE DIRECTOR, AMERICAN POSTAL WORKERS UNION, ACCOMPANIED BY STANLEY LEWIS AND AUSTIN CARLSON OF THE LETTER CARRIERS; JAMES J. LaPENTA, JR., OF THE MAIL HANDLERS DIVISION OF THE LABORERS' INTERNATIONAL UNION OF NORTH AMERICA; AND JOHN McCART, OPERATIONS DIRECTOR OF THE GOVERNMENT EMPLOYEES COUNCIL

Mr. NILAN. Thank you, Mr. Chairman. We are very happy to cooperate with you of course in appearing together in regard to the legislation, and if it is agreeable with you, each of us would like to present our statement, and then we will all be available to you and the committee for any questions you may have.

I might say, Mr. Chairman, that Mr. Filbey, our general president, is ill this morning and is unable to be with us. We have in his place our legislative aide, Mr. Edward L. Bowley to my right; and also our counsel, Mr. John D. Black, with us at the table.

The other witnesses to our left are Mr. Stanley Lewis of the Letter Carriers; Mr. Austin Carlson, to his left, of the Letter Carriers; Mr. James J. LaPenta, Jr., of the Mail Handlers Division of the Laborers' International Union of North America; and Mr. John McCart, operations director of the Government Employees Council.

I will present the statement on behalf of the American Postal Workers Union.

Senator RANDOLPH. Will you proceed.

Mr. NILAN. For the record, I am Patrick J. Nilan, legislative director of the American Postal Workers Union, AFL-CIO. I am pleased to appear and testify this morning our Edward L. Bowley, legislative aide and John D. Black, counsel, concerning S. 2581 which proposes to amend the "Randolph-Sheppard Act for the Blind."

We speak in behalf of the more than 315,000 postal workers for whom we are the exclusive national representative for labor-management relations and collective bargaining with the U.S. Postal Service.

Our membership is employed in post offices and postal facilities in all 50 States, the District of Columbia, Puerto Rico, Virgin Islands, and Guam.

Mr. Chairman, we have testified on previous occasions concerning similar legislation. It is our hope the committee in considering S. 2581 will review these earlier statements as well as our current presentation in making any final determination.

No one, and certainly not the American Postal Workers' Union, can quarrel with the original Randolph-Sheppard Act of 1936. Its intent

was to provide gainful employment and reasonable income for individuals who are handicapped by blindness. As everyone well knows, the senior Senator from West Virginia, then a young Member of the House of Representatives, was one of the original sponsors of this legislation. He must certainly be congratulated for his farsighted efforts then and commended for his continuing concern in seeking to secure and expand a guaranteed income for those afflicted with blindness.

The bill, S. 2581, which is the business before the committee today, was introduced to further those goals. Its objectives are worthwhile and above reproach, however, we are concerned with the inevitable and detrimental effects on Federal employees generally and more specifically on the employees of the U.S. Postal Service.

While there are several provisions in the overall bill which present some problems and which we would like to see revised, it is that portion of section 7 of the bill, which replaces the present section 7, which troubles us the most and which we must oppose in its entirety, as presently written.

That section would give to the blind licensee, operating a vending facility on Federal property, all the income obtained from the operation of any vending machines on that property. If there is no blind licensee on such property, then all vending machine income would go to a State agency.

In other words, even though the machines are not operated by a blind vendor, are located in restricted areas of the property which the general public has no access to, are not operated, in our opinion, in competition to the vending facility and even if no blind vendor is remotely connected with the property or the machines, all income would have to be paid to either a vendor or the State agency.

The findings in section 2 of the bill state that the potential exists for doubling the number of blind operators on Federal or other property in the next 5 years. Section 3 states that the purpose of the bill is to provide blind persons with remunerative employment to make them self-supporting.

These provisions we agree with completely, Mr. Chairman, and could never ever question. We would support legislation to truly accomplish that result. We submit, however, that the objected-to provisions we cited are not directed at accomplishing these ends. Rather, those provisions constitute not only forced charitable contributions, but the taking of property under only the barest concept of due process of law.

Let me explain a little of the mechanics of what we are talking about. The blind vendor in the Postal Service operates vending stands and facilities in the public lobbies of post offices. These are patronized by the general public and for the most part are open only through the ordinary working hours of the day. The postal employees, by the Postal Service regulations, are prohibited from leaving their work areas and going into the lobby of the building.

Therefore, over a period of many years the practice has grown up where the postal employees form committees which either lease, purchase or contract for vending machines to service their needs during lunch periods and break periods. The overwhelmingly greater number of postal employees work at night when the blind vending facilities are closed.

Whatever profits that are derived from these machines are paid into welfare funds which are then dispensed for a variety of purposes such as the purchase of flowers for sick employees, scholarships, the inoculation of employees for flu or other types of diseases and in some cases to supplement the blind vendor's salary where it is shown that such a salary is inadequate.

Senator RANDOLPH. May I interrupt you at this point. In the interest of continuity I have a question.

Mr. NILAN. Sure.

Senator RANDOLPH. In your statement you refer to the considerable number of postal employees who work at night. I would ask you, do you know what percentage of the total of these workers you represent? You have not covered that.

Mr. NILAN. Yes; I could perhaps give you for the record later a more specific figure, Mr. Chairman. If I remember, the last time we checked this out—this would be 2 years ago in 1971—I believe it was approximately 80 percent of the postal workers our union represents work on the night tours.

Senator RANDOLPH. I just want to keep the record straight, and I think that should be documented as you move on.

Mr. NILAN. I would be very happy to request the Postal Service to provide us with the necessary information.

In other words, Mr. Chairman, the employees spend their money and the proceeds are returned to them and utilized by them for the purposes they so designate. Section 7 of the bill would make it compulsory that these funds be contributed to the blind.

The Comptroller General of the United States in his report to Congress of August 10, 1949, endorsed welfare fund activities. He stated, "I am wholeheartedly in favor of such activity" and that:

I believe that they serve a worthy purpose, in many instances tending to promote the interest of the United States as well as those of its officers and employees. Further, I do not doubt that special circumstances may justify the participation of a particular department or establishment in the providing of normal conveniences or services which might not otherwise be available to its personnel.

The Comptroller General further ruled, in December of 1952, that where contractual arrangements for the installation, purchase and/or operation of vending machines on Government owned or controlled property are made by employee groups with administrative approval and with the understanding that any funds received by such groups from the operation of these machines are to be administered by the employees for general welfare activities, the General Accounting Office would not object.

The report of the Comptroller General of September 27, 1973 shows that one-quarter of the blind vending facilities presently operated on Government property are located at postal installations. The General Accounting Office report apparently was based on a limited poll conducted through questionnaires submitted to some 291 installations. While we certainly are not questioning the report, based upon its limited scope, we do submit that there is a dire need for a study in much greater depth of this question than the one submitted.

For instance, the Post Office Department established and presented to the House of Representatives, in a letter dated December 2, 1970, that two-thirds of the blind having stands at postal installations throughout

the country received all or part of the vending machine income accruing to the employee welfare committees. Approximately one-quarter of these blind vendors received all of the vending machine income at their respective locations.

Senator RANDOLPH. I would like to interrupt you again. You have been quoting the GAO. You have not quarreled, as you indicated, with their findings, but believe that it has not been over as broad a spectrum as it should have been in bringing the answers that were asked in connection with the report which I requested from GAO. Is that right?

Mr. NILAN. The report we are talking about is the report of 1973 now?

Senator RANDOLPH. We are talking about the report of employee welfare activities to which you made reference.

Mr. NILAN. Yes, Mr. Chairman.

Senator RANDOLPH. Is it not true that the GAO report confirms the longstanding position of GAO—longstanding—that such operations are of doubtful legality?

Mr. NILAN. Mr. Chairman, I know that there has been some doubt raised about it, however in reviewing the GAO report it is our opinion that the GAO recognized that perhaps the original act did not apply itself directly to the situation which have developed since 1936, and therefore if I recall correctly from the report, they suggested that in view of the uncertainty they were not at that time going to become involved in declaring the welfare activities illegal or not inconsistent with the law. That is my understanding.

Senator RANDOLPH. That is correct.

Mr. NILAN. Continuing my statement, this was accomplished under postal regulations requiring that where vending machines are operated by employee committees in proximity to a vending stand or in competition with such a facility and the blind operator is not receiving an adequate income, he be assigned part or all of the profits from other vending machines at the installation regardless of the location. An "adequate income" is defined to be that of the average postal employee.

We have more than 32,000 post offices in the U.S. Postal Service. Of these, only approximately 280 employ more than 200 employees. Generally speaking, it requires at least a postal installation of this size in order to provide sufficient revenue to allow a vending operation to profitably exist. According to the GAO report of this year, 237 blind vending facilities were in operation.

Based on the above cited figures, Mr. Chairman, we submit that the postal employee committees and the U.S. Postal Service have more than lived up to their statutory obligations under the terms of the Randolph-Sheppard Act.

Perhaps they could and should do more. On this aspect we are amenable to reasonable measures to accomplish this goal. However, we respectfully submit that we would not be subjected to giving up the totality of the income derived from the vending machines particularly when it has no relationship to the actual employment of the blind vendors.

Senator RANDOLPH. I would like to cover what you have said in your statement when you used "adequate income." You define it as that of the average postal employee.

Mr. NILAN. It is our understanding that the level 5, step 5, of a postal field service employee's salary is \$10,363.

Senator RANDOLPH. You can understand why I am asking, because we need to know what "adequate income" means, I have to have the figures, and it is not in the record.

Mr. NILAN. We intended to have it in the record, Mr. Chairman, but we did not have it available when we prepared the testimony.

Senator RANDOLPH. Does this average increase when postal wages are increased?

Mr. NILAN. Yes. The dollar amount would change whenever there is a wage increase. The \$10,363 will change next July by about \$400.

Senator RANDOLPH. That is all at the moment.

Mr. NILAN. At the present time, postal employees are discriminated against in several ways. For instance, under the Hatch Act they are prohibited from participating as first-class citizens in politics.

Senator RANDOLPH. What do you mean by active participation? Is voting active participation?

Mr. NILAN. Right.

Senator RANDOLPH. Now take those who are not included that you believe should be included.

Mr. NILAN. What we are saying, Mr. Chairman, is when the Postal Reorganization Act became law on August 12, 1970, the provision in the act continued the prohibition against postal workers participating in political activities as restricted by the Hatch Act which restricts all Federal employees.

This is why we say that when we were put into a different status we believe as postal workers that we should have been given the complete rights of all our brothers and sisters in the private sector, and be permitted to openly and actively participate.

By that I mean openly support candidates of our choice; be able to speak on their behalf; be able to actually campaign for them if we feel that they are worthy of our support; but unfortunately Congress did not grant us that right when it passed the Postal Reorganization Act.

Senator RANDOLPH. I want the question read back so there can be no mistake made. I think you have just said that you should be accorded all the privileges and rights—or whatever the language you used—of those who belong to what is called the private unions.

Mr. NILAN. Right. That is what we are talking about, private sector employees, and public sector employees.

Senator RANDOLPH. You want the right to strike?

Mr. NILAN. Absolutely.

Senator RANDOLPH. I disagree.

Mr. NILAN. I know you do, Mr. Chairman. We respect your position.

Senator RANDOLPH. I hope so, and you better believe the people of the United States believe that their viewpoint on this subject should be respected too.

Mr. NILAN. Mr. Chairman, we have no quarrel with that, but certainly I am sure you do recognize that as trade unionists and operating in an entirely different situation now Congress has more or less moved us out—

Senator RANDOLPH. Oh no, Congress has made you part of the Postal Service.

Mr. NILAN. Right, but they certainly have placed us in a different status from any other Federal employee. I am sure you would agree

with that since you were so active in the development of the Postal Reorganization Act.

Senator RANDOLPH. No, I was not active, I did not frankly like it very much. I reluctantly supported it, only hoping that it might work.

I am a member of the Senate Post Office and Civil Service Committee that has caused to be brought into being the review hearings. If you have studied this matter over a period of time, I did not take carte blanche what they have been doing on many scores.

I want to repeat that you believe that postal workers should have the right to strike.

Mr. NILAN. If I may continue the statement, I make it very emphatically in the statement, Mr. Chairman, but I will repeat it for the record.

Senator RANDOLPH. Repeat it several times. I want the record to so show.

Mr. NILAN. All right, Mr. Chairman. The American Postal Workers Union, AFL-CIO, honestly believes that we should have an absolute right to strike as is at present being considered in H.R. 11002.

Senator RANDOLPH. The only point I would make is that you do not have to use the word "honestly." I do not believe that is necessary. Just make the statement.

Mr. NILAN. The American Postal Workers Union believes the postal workers should have the right to strike similar to our brothers and sisters of the private sector.

Senator RANDOLPH. Then you believe that firemen should strike?

Mr. NILAN. Mr. Chairman, I speak for 305,000 workers in the APWU, and I speak only for them; not for the firemen.

Senator RANDOLPH. Give us your personal feeling. You sit here as a responsible citizen. You are asked a question by the chairman, and I would think you would want to reply.

Mr. NILAN. Let me put it this way. If you want such a reply, I believe every person who works for a living, depending on the type of work he performs—there may have to be certain controls, certain restrictions, certain procedures that they have to follow—but ultimately as a worker in our American democracy, the history of the last 40 years has demonstrated those who work for a living should have the ultimate right to withhold their labor under conditions which may be prescribed by law and under the legislation H.R. 11002 which we are supporting.

Senator RANDOLPH. That is the longest and not an answer to my question that I can imagine. I asked you a very easy question. Do you believe that firemen should be allowed to strike?

Mr. NILAN. Mr. Chairman, I repeat it this way, that I believe all workers—and firemen certainly are workers—should have that right—

Senator RANDOLPH. To strike?

Mr. NILAN. I did not say that, Mr. Chairman.

Senator RANDOLPH. Then the right to strike.

Mr. NILAN. Let me make the record clear. I say all workers should have the ultimate right of strike or withholding of their labor, and if that includes firemen, as it does, it includes all workers.

Senator RANDOLPH. How about policemen?

Mr. NILAN. They work for a living too, Mr. Chairman.

Senator RANDOLPH. I see. Hospital workers who stop operations in hospitals? Do you condone that?

Mr. NILAN. Mr. Chairman, I will repeat myself so there is no misunderstanding. As a union representative, I speak only for the Postal Workers. This is our paramount legislative goal, and I certainly believe again that all workers under whatever conditions prescribed by law should have the ultimate right to withhold their labor.

I just believe it. I do not know how I can make it any more clear.

Senator RANDOLPH. You do not have to make it any more clear. I simply ask these questions in three categories. I could ask in other categories.

Mr. NILAN. I am sure you could.

Senator RANDOLPH. But we asked postal workers first, and then I included three others, did I not? They are working for what, the public sector, the welfare of the country as a whole?

Mr. NILAN. They are working for all citizens in their particular field, Mr. Chairman.

Senator RANDOLPH. Now I want the record to show—and it will not be denied—that there is no Member of the Congress during 29 years plus who has been more active in securing not only the rights but encouraging unionism of workers, unionism of workers not only in the private sector but unionism of workers in the public sector, including every employee in the Federal Government, every employee in the State government, every employee in local government.

Is that correct?

Mr. NILAN. Absolutely, Mr. Chairman.

Senator RANDOLPH. Then it is very plain today that we just disagree on the matter of the strike by the postal workers, by the firemen, by the policemen, and by the hospital worker; is that right?

Mr. NILAN. No question about it, Mr. Chairman.

Senator RANDOLPH. That is clear.

Mr. NILAN. I respect your position, and I would certainly hope you respect ours.

Senator RANDOLPH. I respect it, but I disagree with it, and the American people I think ultimately will come to understand the tremendous dangers for this country if that philosophy is allowed to erode and deteriorate this Nation.

Mr. NILAN. Mr. Chairman, if the other body does act on our legislation I am sure that your committee will give it serious and thoughtful consideration and all views will be known.

Senator RANDOLPH. I wish you would outline in detail for the subcommittee the fringe benefits available to postal employees and Federal employees generally. By that I mean all benefits other than salaries and wages.

Mr. NILAN. I would be delighted to submit a complete list for the record, Mr. Chairman, but to just sum it up, postal workers have life insurance coverage, basically \$10,000 a year and up depending upon their salary status.

The Government contributes and the employees contribute to the civil service retirement fund, 7 percent each, and we participate in the retirement system.

We have health benefits, which the Postal Service at present contributes 55 percent and the employee 45 percent of the cost.

We are under the Federal Employees Compensation Act. There may be others. I am sure there are, Mr. Chairman, but these are the basic ones. And, of course, annual and sick leave benefits which are provided by law. I believe those are the major ones. There may be additional ones.

Senator RANDOLPH. Mr. Nilan, I would place in the record at this point the negotiated benefits for postal employees under the agreement which was effected July 21, 1973, through July 21, 1975, and that of course includes health insurance, employer contributions which increased from 40 percent to 55 percent.

Mr. NILAN. That is correct, Mr. Chairman.

Senator RANDOLPH. And then on July 20, 1974, that employer contribution will be increased to 65 percent.

Mr. NILAN. That is correct, Mr. Chairman.

Senator RANDOLPH. On life insurance the employer assumes the full cost of the standard coverage.

Mr. NILAN. That is correct, Mr. Chairman.

Senator RANDOLPH. I have never believed that the employer should stand the full cost personally. That is another difference perhaps we would have. I believe both the employee and the employer, whoever the employer be—public or private—I believe in joint participation.

Mr. NILAN. Mr. Chairman, on that if I may say we are consistent because our union contract with our own office employees for several years now and for some 300 or 350 total employees in our hospital plan, and in our union we do pay 100 percent payment of health benefits for those employees, 100 percent of life insurance premiums, so we are consistent in our efforts to accomplish the same for our postal workers.

Senator RANDOLPH. Holidays? I need not check those out.

Mr. NILAN. The same as the Federal service.

Senator RANDOLPH. And leave? Of course I need not check that out.

Mr. NILAN. The same as the Federal service.

Senator RANDOLPH. And salaries and wages, which of course indicate the increases for which I believe there is a real reason to have those increases, and injury compensation, retirement, and the uniform allowances.

The agreement also provides no layoffs of personnel are permitted. That is rather encouraging, is it not?

Mr. NILAN. Right, Mr. Chairman.

Senator RANDOLPH. I will place this in the record.

[The information referred to follows:]

NEGOTIATED BENEFITS FOR POSTAL EMPLOYEES
UNDER AGREEMENT EFFECTIVE JULY 21, 1973 THROUGH July 20, 1975

HEALTH INSURANCE

July 21, 1973 - employer contribution increased from 40 percent to 55 percent.

July 20, 1974 - employer contribution to be increased to 65 percent.

LIFE INSURANCE

July 20, 1974 - employer assumes full cost of standard coverage.

HOLIDAYS

Nine holidays with full pay; work on holidays pays double; Christmas work pays 2-1/2 times.

LEAVE

Annual leave of 13, 20, and 26 days depending on years of service.

Sick Leave is credited as earned.

SALARIES AND WAGES

July 21, 1973 - base annual salary increased \$700.

July 20, 1974 - base annual salary to be increased \$400 additional.

Cost of living adjustment - reviewed every 6 months.
Pay adjusted 1 cent per hour for each 0.4 point increase in cost of living index.

INJURY COMPENSATION AND RETIREMENT

Provided under Civil Service, as for other Federal employees.

UNIFORM ALLOWANCE

Two allowances based on employee position - \$140 per year and \$60 per year. New employees get an additional \$35 and \$7.

The agreement also provides that no layoffs of personnel are permitted.

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Mr. NILAN. Shall I continue?

Senator RANDOLPH. Yes, go ahead, sir.

Mr. NILAN. The Postal Reorganization Act, while purporting to put them on equal basis with employees in private industry, discriminates against them by denying them the most basic weapon in collective bargaining, that is: the right to strike—which I believe we have discussed in some detail.

Senator RANDOLPH. You mean with some heat.

Mr. NILAN. With some heat, yes, Mr. Chairman. [Laughter.]

They are also denied the right to negotiate provisions for union security. The postal unions are working very diligently to try to eliminate these forms of discrimination. But now comes another form of discrimination directed at the postal employees.

They, and other Federal employees, would be, under the provisions of this bill, the only employees to our knowledge, subjected by law to make compulsory charitable contributions. It is for this reason that we oppose the provisions of section 7.

Mr. Chairman, as you know we are not new to the problems presented by the pending legislation. Our previous record of testimony before your committee and the committee in the House is substantial. When we last appeared before you in December 1971, we expressed considerable concern about the amount of data concerning the Randolph-Sheppard Act in general, the income received by the blind in particular and the amount of income derived from vending machine operations. We also expressed concern about eliminating the benefits presently derived from the health, safety, welfare, and recreational programs under the present method of operation.

Senator RANDOLPH. Mr. Nilan, I want you to refer to your prepared statement in reference to the compulsory charitable contributions. Why do you consider withholding vending machine income to be compulsory charitable contributions?

If I pay for food at the Safeway, we will say, or you pay, or anyone of the panelists pays, do you expect a rebate?

Mr. NILAN. Mr. Chairman, that is a business you are talking about as such, as any other business. I really do not follow your comparison.

Senator RANDOLPH. We will let the question and let your answer stand.

Mr. NILAN. We were hopeful that the study conducted by the Comptroller General would supply the missing data. Unfortunately it did not. We, and the committee, are as much in the dark today as during the last hearings. This is regrettable. I am of course talking in retrospect, but the sampling was a representative one, and we are not challenging the overall opinion, but we do believe it is regrettable.

As the committee is aware, the Postal Reorganization Act created the U.S. Postal Service as an independent establishment. It established a Board of Governors to lay down policy for the Postal Service.

Under this bill this independent establishment would no longer be so independent. The Department of Health, Education, and Welfare, and even, in some circumstances, State agencies would have regulatory powers over the Postal Service. We submit this would be a step backward from the goals the Reorganization Act sought to achieve.

Senator RANDOLPH. Mr. Nilan, do you agree that the Postal Reorganization Act is making progress?

Mr. NILAN. Yes; this is a much more involved, important, and far-reaching piece of legislation than appears on the surface. This is particularly true insofar as hundreds and thousands of loyal, dedicated, and hard-working postal and other Federal employees who have enjoyed beneficial health, safety, welfare, and recreational programs from their purchases of vending products and related income available for the good of all employees through their employee welfare committees which have been functioning in their best interest for up to 25 years. Such benefits are not available to the employees from any other source.

Mr. Chairman, we repeat, we are not opposing adequate employment and resulting income for the blind. We do submit, however, that this should not be at the expense of the postal and other Federal employees by depriving them of the income derived from their own expenditures.

Thank you, Mr. Chairman, and members of the committee, for this opportunity to present the view of the American Postal Workers Union (AFL-CIO) on behalf of the 400,000 postal employees in post offices throughout the United States and possessions thereof. I will be happy to respond to any questions you may have concerning our testimony, following the presentation by the other witnesses.

Senator RANDOLPH. Thank you, Mr. Nilan.

Mr. Nilan, I would appreciate your telling the members of the subcommittee how many full-time postal employees there are in the United States.

Mr. NILAN. I believe those in our bargaining units, Mr. Chairman, are approximately 500,000.

Mr. Lewis may be in a better position since he works on the Postal Service negotiations to give a different figure. I believe it is about 500,000.

Mr. LEWIS. It is about approximately that in the bargaining units, but that does not include all postal employees.

Senator RANDOLPH. That would run probably 600,000?

Mr. LEWIS. Probably 600,000, Mr. Chairman. The figure varies from week to week depending on what the current situation is in the post office.

I would say probably the closest estimate would be around 635,000 as a norm throughout the year. That includes postmasters, supervisors, persons other than included in bargaining units of these unions.

Mr. NILAN. Mr. Chairman, if I may correct the record, on page 5 of my prepared statement when I talked about 400,000, it really should have been 500,000. I was thinking about employees in the bargaining units which we represent.

Senator RANDOLPH. Thank you very much, Mr. Nilan. I appreciate your responsiveness, and, of course, appreciate the responsibility which you have, which represents I am sure the thinking of the members of your union. That is correct, is it not?

Mr. NILAN. That is correct, Mr. Chairman.

Senator RANDOLPH. The next witness, please.

**STATEMENT OF J. STANLEY LEWIS, EXECUTIVE VICE PRESIDENT,
NATIONAL ASSOCIATION OF LETTER CARRIERS**

Mr. LEWIS. My name for the record is J. Stanley Lewis, executive vice president of the National Association of Letter Carriers. I do not have a prepared statement to give to the committee, but I will present one for the committee at a later time.

Senator RANDOLPH. I like an off-the-cuff statement.

Mr. LEWIS. Thank you. Accompanying me is our secretary, Mr. Austin B. Carlson who has been long associated with our organization and has wide experience in the field.

Mr. Chairman, for the record again our headquarters is 100 Indiana Avenue NW. We have approximately 220,000 members in some 5,500 branches throughout the States and possessions of the United States.

We appreciate very much this opportunity of appearing before the committee to express our views on S. 2581. It is a bill to amend the Randolph-Sheppard Act of 1936.

Unfortunately we find ourselves in the unique position this year, as we were 2 years ago, in disagreeing with the legislative proposal that you have sponsored, Mr. Chairman.

During the 14 years you have served in the House and during the 15 years you have served in the U.S. Senate we have never once to my knowledge been in disagreement with the position you have taken concerning the welfare of letter carriers and other postal employees. On the contrary, there have been innumerable times when you have well deserved our heartfelt gratitude and support.

In expressing our disagreement on this particular bill, I do not want anybody to think that the letter carriers have turned our heads against the other disadvantaged people; far from it. We do have a long and honorable record as a union and as individuals supporting worthwhile causes of all kinds.

We have particularly identified over the years with the battle against muscular dystrophy and other worthwhile causes.

Mr. Chairman, as we understand the intent of the Randolph-Sheppard Act when it was first enacted, it was to give blind persons a preference in the operating of vending machines on Federal property or federally controlled property when it was feasible.

This certainly is a laudable objective and one with which no reasonable person can disagree. We firmly believe that these blind persons should be assisted in their efforts to earn a livelihood and be self-sustaining.

However, we believe that the intent of the Randolph-Sheppard bill when it was first enacted—certainly we are not trying to tell you, Mr. Chairman, as sponsor and originator of this bill what the intent was—

Senator RANDOLPH. I remember the Post Office Department opposed the bill. I think you might want to go back and read the testimony in 1936 from the Post Office Department through either the Postmaster General or the Assistant Postmaster General. That official came before the Labor Committee of the House and opposed the measure.

I am glad that now you and other postal workers would not wish to endorse what happened then. Is that right?

Mr. LEWIS. Mr. Chairman, unfortunately, I do not go back to 1936 in my postal career. I came into the service in 1940. I have not reviewed

the record of 1936 testimony, but I have reviewed the 1936 law, so I cannot say with honesty or certainty that I differ from what was said at that time or agree with it.

Senator RANDOLPH. That is one of our problems these days, we do not look behind the law. We do not look at the struggle that went on for a long, long period of time.

This act did not just come into being in a few weeks in 1936. It was the result of long, long efforts by many, many persons.

I shall remember always the chairman of the House Labor Committee, Bill Connolly of Massachusetts, I suppose one of the most loyal, most progressive persons from the standpoint of appreciation and understanding and determination to help workers, that we have ever had in the Congress; he believed strongly in unionization.

Mr. NILAN. Mr. Chairman, may I just ask a question on that point. Senator RANDOLPH. Certainly.

Mr. NILAN. We have been trying quite honestly to get a copy of the original hearing report in 1936, and also the debate that took place on the floor of the House of Representatives. If it is in the committee, or if you know where we might be able to get it, we would certainly appreciate it, because we would like a better understanding.

Senator RANDOLPH. Surely. All I can say at the moment is that it is a matter of record and, why is it not available?

Mr. NILAN. We tried to get it on the House side.

Senator RANDOLPH. I expect the legislative counsel of the Senate has the complete history. Also, the Library of Congress, I am sure, has it; but frankly, I want to ask for the members of the Subcommittee on the Handicapped that the staff bring this material together.

Mr. NILAN. We would be very appreciative, because we would like to understand better the history of the act, and we have not been able to get that.

Senator RANDOLPH. Thank you, Mr. Nilan. I think sometimes it is rather worth while to go back and see the struggles which take place on many of these matters. We take for granted now the Fair Labor Standards Act. Today, people, in a routine way, think it was always so. It was not.

I remember when we fought within the Labor Committee of the House of Representatives to secure 25 cents an hour as the minimum wage and stop the sweatshop conditions under which children were working.

I think it is interesting reading, although perhaps documentary reading, to an extent, sometimes to go beyond the cold print of the law as it comes into effect, and then as it is added to from time to time. I think it is helpful.

Thank you very much.

I think because of the discussion today which I had not intended to incorporate, Senator Stafford, it might be good for us in this hearing record to include the record which goes back beyond the first legislative act.

Senator STAFFORD. I think that would be highly desirable.

Mr. LEWIS. Thank you, Mr. Chairman.

In closing, I want to associate myself with the statements made by Mr. Nilan. Speaking in behalf of the National Association of Letter Carriers, we put ourselves on record, as did Mr. Nilan, that we, too,

believe that postal workers should have the right to strike under the conditions that we are presently operating.

We believe very firmly that the right to strike is one of those rights that should be given to every American worker, and as a result we would urge very strongly that legislation of this type be passed.

Senator RANDOLPH. You mean the American worker to include the policeman?

Mr. LEWIS. I believe that every employee, including policemen, firemen, should have the right to strike, which I hope will never have to be exercised.

Senator RANDOLPH. Well, it is being exercised. Policemen are striking.

Mr. LEWIS. But they are doing that even without the right to strike, Mr. Chairman.

Senator RANDOLPH. I am not discussing this. I am merely saying that policemen are striking.

Mr. LEWIS. Perhaps.

Senator RANDOLPH. Firemen are striking; postal workers have struck.

Mr. LEWIS. Correct.

Senator RANDOLPH. We are dealing with a condition, are we not?

Mr. LEWIS. Mr. Chairman, I think to go back in every instance where you have had the postal workers, the firemen, the policemen, the teachers striking, if you review the situation——

Senator RANDOLPH. Do you believe in teachers striking?

Mr. LEWIS. I believe they should have the right to strike, Mr. Chairman.

Senator RANDOLPH. What about the 4- or 5- or 6-month strikes that we have had, let us say, in Michigan and New Jersey? I think the teachers there had a responsibility to the children who were not going to school—300,000 in one instance alone.

Mr. LEWIS. Yes, Mr. Chairman, I believe the teachers do, but I also believe that management people who are likewise responsible to some degree for a strike occurring also have the responsibility to see that conditions are not such that a strike is the only recourse the workers have to air their grievances.

Senator RANDOLPH. Conditions are not always perfect. In your home you and your wife may not have conditions that are perfect, but you do not walk off from your wife, your wife does not walk off from you; is that not correct?

Mr. LEWIS. That is correct, but the thing is, Mr. Chairman, she has the right to if she so desires. [Laughter.]

Mr. Chairman, I will conclude my statement with those remarks. I will be glad to answer any questions you might have.

Senator RANDOLPH. I will direct this to you, Mr. Nilan, and perhaps to you, Mr. Lewis. This is a hypothetical question but sometimes those are permissible.

Let us say the blind vendors under the act would strike in the Nation's post offices. Would postal workers refuse to cross the picket lines?

Mr. LEWIS. Mr. Chairman, may I say first, the blind worker, as I determine the principles of the Randolph-Sheppard bill, is a self employer. Who would he be striking against? What would be the occasion that would cause a blind vendor running a vending machine operation to strike?

Senator RANDOLPH. He might be upset that your union is taking the money that he believes he should have from the vending machine. You see, that would be one reason. I am not saying he would exercise a right to strike on that account.

Mr. LEWIS. We are not his employer, Mr. Chairman. He would not be striking against us.

Senator RANDOLPH. I am saying that is one of the conditions that might cause him to be upset.

Mr. LEWIS. I cannot visualize the condition you are speaking of.

Senator RANDOLPH. I cannot visualize the policeman striking. I cannot visualize the teacher striking. I cannot visualize the fireman striking. That is where we differ.

Mr. NILAN. May I just respond?

Senator RANDOLPH. Why surely.

Mr. NILAN. I think part of the problem that is occurring in America today with the postal worker, the fireman, the policeman, the teacher, has developed because they do not have the right to strike and as a result their organizations do not have the responsibilities and authority which are placed on them under the labor laws of this country in regard to restrictions for example, cooling off periods, and all the other provisions under the Taft-Hartley and Landrum-Griffin laws, as union leaders have no way of controlling or stopping a walkout, a strike, or anything else.

We have absolutely no way of doing it. What we are saying as far as the postal workers is—and we would hope that perhaps you might consider a bill which we would send over for your consideration—we feel if by law we should be granted the same rights and then we have the same responsibilities as workers in the private sector. Right now we have no way of responding to such situations when the members of our organization become involved in a walkout, because we have no overall legislation or law which provides any procedures for resolving that type of situation other than a postal worker involved can be put in jail for a year and/or a fine of \$1,000 for striking against the Government.

What we are proposing, and I believe the other organizations are proposing, is that the Congress or the State that might be concerned spell out the procedures, the protective devices, the built-in cooling off periods, which would result if they become law in actually eliminating many of these strikes that take place.

We believe that as long as the present situation continues, postal workers, firemen, teachers, who have no such rights legally, you are going to continue experiencing walkouts, wildcat strikes and so forth by postal and public service employees.

We came close to it earlier this year when we were in bargaining with the U.S. Postal Service. We had almost the same situation as in 1970. Our leaders particularly in the larger cities were telling us if the postal service and the union did not negotiate what in their opinion was a negotiable contract, they were not going to be responsible for what would happen suggesting another postal work stoppage as in 1970.

We in turn, since there is no Federal law which recognizes this type situation, there is no way we could respond to the situation in 1970 or earlier this year if it occurred again.

What am trying to say is that we honestly believe if the Congress of the United States would give postal workers strike rights under

certain protections and build-in cooling off periods and other devices, it could help reduce the possibilities of strikes in the future.

We think this is a situation which is plaguing not only our postal workers but the other public service employees as well. And this is why we have to respond that every worker whether in the public or private sector should have the protection and rights and responsibilities under labor laws of withholding their labor under specific conditions and safeguards.

STATEMENT OF JAMES J. LA PENTA, JR., DIRECTOR, FEDERAL-PUBLIC SERVICE DIVISION, LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

Mr. LA PENTA. Mr. Chairman, I would like to comment on that if I may. I am James J. La Penta, Jr., and I am the representing the Mail Handlers Division of the Laborers' International Union of North America.

Senator RANDOLPH. Yes, Mr. La Penta.

Mr. LA PENTA. Mr. Chairman, I would like to try to put the issue at hand in a little better perspective if I may and briefly address myself to this issue in a more total sense than has been today insofar as the right to strike is concerned.

Our union does not differentiate between the private-sector and public-service worker. We do try to make the point clear in our appearances before bodies like the Congress of the United States, State legislatures, county commissions, municipal governments, et cetera, that public workers are behind the times insofar as workers in the private sector are concerned.

Workers in the private sector have the right to organize and join unions of their own choosing. They have the right after they form those unions to engage in collective bargaining agreements after they have elections.

They have the right when they enter into collective bargaining agreements to a negotiated contract. That contract has in it certain rights for union security and certain procedures for the handling of disputes.

For the handling of those disputes you have mediation and conciliation. You have factfinding. You have arbitration, and you should have the right to strike.

Now, in response to your question about a particular category of workers in the public sector, the ones you talk about particularly—the firemen, policemen, hospital workers—

Senator RANDOLPH. And the teacher.

Mr. LA PENTA [continuing]. And the teacher—we say to you that if these rights are given to those workers, and you give them the means and methods to air their grievances, settle their disputes, the right to strike would not have to be the only weapon they use. I think you would see a diminution of strikes as you have had in the private sector in the last 25 to 30 years.

I say to you respectfully, Senator Randolph, one of the reasons for the escalation of the strikes in the public sector in recent years has been the irresponsibility of the various legislative bodies for not giving these workers the opportunity to use the kind of machinery where they

can justly air their grievances. As a result of that fact, these frustrations occur.

Insofar as the blind worker is concerned, once again, I think this is a result of their frustration over the years because they have not had the kind of machinery in the Randolph-Sheppard Act to provide for what they think they justly deserve. On the other side of the coin, you are confronted with the postal workers feeling the same kind of frustration because of the lack of dispute settlement machinery.

You know what has happened in the last couple of days. You have seen the results on the highways where the truckers are concerned. This is not an exercise in arrogance of power; this is the frustration of these workers who are tired of the inequitable situations that exist for them today.

You take the mail handler. He is a level behind the carrier and the clerk. What do you think that worker feels when he hears of the President of the United States and the privileged rich in this country taking advantage of tax shelters and tax loopholes and not paying as much in taxes as he is paying on his meager salary, somewhere in within the area of \$8,000 to \$10,000 a year?

What do you think a worker feels when he knows he is going to be forced to make yet another compulsory contribution and not get the benefits of any part of the program?

He feels those same kinds of frustrations. What we are really trying to do here is to provide the kind of machinery to allow people to air their just grievances. After all, we are supposed to live in a free and democratic society.

One of the important functions of a free and democratic society is to give the people the opportunity to air their grievances and have the opportunity to settle their disputes. So it is not the right to strike that we are looking at per se. We are looking at the kinds of machinery that are going to allow people to settle disputes and get a fair shake.

Senator RANDOLPH. Mr. La Penta, as you talk, I remember you were part of the Kennedy administration, is that correct?

Mr. LA PENTA. That is true.

Senator RANDOLPH. I was a part of that administration. We made great strides, did we not? John Kennedy before becoming President was chairman of our Subcommittee on Labor of the Labor and Public Welfare Committee. So I go back for just a moment to remind you that we were working then to do away with inequities. They did not happen in, let us say, John Kennedy's period of leadership in total. They did not happen in any administration in a total way. It is a process.

Certainly neither Senator Stafford nor any other member of this subcommittee, including its chairman, could condone any illegal tax shelters. Certainly no member, I would hope in any public life, would want inequities to continue to exist.

Only as we work our way are these situations properly handled. It might be very galling for me, Senator Randolph, today to listen to the johnny-come-latelies talk about the energy crisis.

I could stand here and talk for an hour and a half about what I attempted to do in 1959, 1961, and so forth through the years on energy needs in this country. Senator Stafford has had the same experience in some work he was doing. I do not place my finger on that work, but

it was there. But you do not quit, Mr. La Penta. Mr. Stafford does not quit. Others of us do not quit.

Of course frustration, as anyone understands, is a condition which is across the board.

Now let us see, the average postal worker, and I am not saying this is all that he or she should have, receives wages of approximately \$200 per week, that is 1972. The average weekly wage in manufacturing is not \$200. It was \$155, and the average wage in what we call goods and services, for instance, was \$106. So I am not sure that when you come and attempt to make comparisons that they always would hold water.

That is all I am saying. I could discuss this a long, long time today as you and all the others could. Perhaps I made a mistake in even opening the subject, but our friend—I call him a friend, the same as Mr. Lewis calls Mr. Nilan a friend—spoke on the matter.

When you spoke about the right to strike, as your friend, I thought I should say something. I am sorry we have taken 45 minutes on it or 30 minutes, whatever the time.

Mr. NILAN. May I just say this, we are delighted that this is the first opportunity our union has had to discuss the right to strike for postal workers.

Senator RANDOLPH. I am glad, Senator Stafford, that we provided the forum.

Senator STAFFORD. I am glad I have had a chance to hear these statements. I am glad I had this chance to hear the viewpoint of the distinguished labor leaders who are here.

Senator RANDOLPH. We only wish all the members of our subcommittee were here, but their commitments, assignments, and problems have prevented this.

Mr. Lewis, I believe you had not concluded your statement.

Mr. LEWIS. I had concluded. Mr. La Penta I think was next in line.

I just want to say that I will be pleased to answer any questions you might want to ask.

Senator RANDOLPH. Mr. Lewis, let us think for just a moment what the blind representatives have rejected, and that is at the work areas in the postal facilities, that they are too hazardous for the establishment of a facility for the blind. I think it is also factual that the GAO has indicated that it can find at least five successful vending operations within one region. I am not sure, but you might want to comment on what basis there would be for considering postal work areas as too hazardous. You might have some comments on it.

Also, what is the level of dues in the postal unions and what about other Federal unions as to dues? Do you know the average level of the union dues in industry? What is the average total pay of postal employees, including overtime? We need to have these answered in the record. Do you want to comment on any of these questions?

Mr. LEWIS. Yes, Mr. Chairman. I would be glad to and, I am sure, my colleagues will want to add to it also. As post offices are becoming more and more sophisticated, as postal facilities are becoming more and more mechanized as days go along, there is no question that there will be more mechanization, more and more advanced technical equipment placed in post offices, and it becomes a more hazardous place than it was in the old days when everything was done manually.

I hope, and this is another one of our big hangups, that the Postal Service will provide more safe working conditions for our employees. I do not think the question boils down so much as to the hazard and the safety of blind persons entering the workroom floors, except it has been a customary and traditional history that only persons who have postal clearance, people who are postal employees, are permitted in workroom areas.

Now you are asking about the dues of unions. For our union our dues are \$2 per month per member, which is our per capita tax. This will vary from office to office as to local dues over and above that. I think you will find a fair average for our dues for our union nationwide will be between \$4 and \$5 per month per member.

MR. NILAN. Most of the postal workers that we represent, the majority of them, work inside, and certainly I concur as my colleague Stanley Lewis did, and I know Jim La Penta, and the membership he represents, will tell you that one of the greatest problems that our unions are concerned with is the safety and health of our members in post offices right today.

The Postal Service has an atrocious record insofar as safety is concerned. Part of it is the letter carriers safety problems and that of our motor vehicle drivers. A large number of injuries, a substantial number of all injuries, result from unsafe working conditions in the Nation's post offices.

As a matter of fact, Mr. La Penta, Mr. Lewis, our general president, and a number of other union officials and I have been in regular consultation with the Postal Service since the contract was signed last July 21, trying to find some solution to the safety hazards in post offices.

Now since the postal worker himself is experiencing hazards insofar as safety is concerned, we certainly cannot believe that the unfortunate person who is sightless would be able to protect themselves in any postal installation. We say this particularly because of the highly mechanized and automated machinery and equipment in most of the larger post offices.

We talk about the largest 280 or 290. Most of them are mechanized now or will be in the next few years. It is bad enough for a worker trying to get around the machines and trying to get over them and stay clear of hazards on the floors with the mail pouches being dropped down through openings and evading the overhangs that carry the mail and bags back and forth. The only way you can get to the swing room areas generally and where the workers go to vending machines you have to come onto the workroom floor. This is why we think that a sightless person would be severely handicapped trying to come into the workroom areas and again we suggest this is an important reason why they could not service or handle the machines.

As far as union dues in our union is concerned, our monthly per capita is \$1.70. We presently have a 40 cent assessment which will be made permanent or relaxed at our convention next August.

The unfortunate part of the postal workers union, and I have said this critically of our local unions at times, is that some of our membership have not grown up consistent with their responsibilities. We have local union dues that are as little as \$2.50 or \$2.75 a month. Even in our bigger cities they are only \$4, \$4.50 a month. To compare this with

the dues in the private sector, why there is no comparison. We have done everything possible to assist our local unions to increase their dues consistent with their organizational responsibility.

I have been occasionally criticized because I have written in our monthly publications articles stating that "the price of unionism never comes cheap." I lay it on to our members and officers that we must develop realistic dues. This is another reason why at the present time we have no other way of taking care of the welfare, health, social activities, recreational activities, and so forth, without vending income and welfare committees. We have no other way of coming up with the money.

The Postal Service made it clear they have no intention of doing so if the employee welfare associations are liquidated.

Mr. LA PENTA. Let me be a little more specific. The latest figures that I have been able to get, and I am sure there are probably some later figures than these, but anyhow throughout the entire Federal Government the number of injuries—I think during 1971—was 36,000. Of that total number of injuries in all Federal agencies, the Postal Service had over 17,500 of those injuries, almost one-half.

What were the types of these injuries? The majority were from slips, falls, trips, and lifting. I think this brings us what my colleagues say that it is going to be almost impossible, for sightless persons to work in postal facilities.

You go on to the postal work floor, and because of any number of reasons, the obsolete structure of the building, and so on, you have very, very cluttered workplaces. In most hazardous industries in this country the accident frequency is one-third that in the Postal Service.

On top of that, the Postal Service is changing from a labor-intensive industry to a capital-intensive industry. You add new machinery on top of that fact and, unless this situation is corrected, you are going to get into different types of injuries, including cuts because of the machinery, loss of hands, arms, and so on. These places are going to be extremely difficult places to work in unless major changes are made.

Senator STAFFORD. Is one of you gentlemen prepared to answer the chairman's third part of his question, which was what is the average total pay for postal employees, including overtime?

Mr. NILAN. Of course we have no way of providing that information, Mr. Chairman. We can only go on the pay rate schedules which are available to us. I would say that in our crafts particularly, we have many, I guess something like 32,000 or 33,000 postal facilities throughout the country, and we represent people that are working in 10,000, 12,000, 15,000 of these, that are lucky if they are getting 4 or 6 hours of pay a week.

So again if you would average this out among all of them in our craft, it might be even less than the annual salary which we projected here today, I mean the average salary.

Mr. LEWIS. Mr. Chairman, I would estimate that the average salary for postal employees including salary step level 5 that Mr. Nilan referred to before, including the use of overtime, is roughly between \$10,000 and \$10,500. Now what brings this average up to this high a level is that there are at least 35,000 supervisors in higher levels, there are at least 35,000 postmasters, plus you have the departmental headquarters and the regional people which bring the average total salary up to higher than it is for the average worker.

I would say that the average salary for people we represent, the letter carriers, is around \$10,000 to \$10,500 a year including any overtime that might be granted.

Senator STAFFORD. Thank you.

Mr. LEWIS. I hope you understand too the figures have just come into being the last year or two, since we have been going to the negotiating table and gotten raises which were caused by the strike in 1970 and subsequent raises that we have obtained through the collective-bargaining process.

Senator STAFFORD. Thank you very much.

Senator RANDOLPH. I just want to repeat that I do not want any wage increases brought about by the strikes within the Postal Service.

Mr. NILAN. I think you made that pretty clear.

Senator RANDOLPH. I will stand and fight with you for postal increases, and I never failed to do that through the years, whether it was under one umbrella or not. I said in giving average wages here today, talking about the insufficiency, and adequacy, I was only giving you what we had as the average manufacturing goods and services and postal workers.

I was not attempting to say what conditions were that brought it about.

Mr. LAPENTA. In answer to your question about postal workers income, I think, in all honesty, that I must say to you I do not think there is any question that there has been a lot of overtime work by postal employees, especially in larger postal facilities.

In the smaller postal facilities, as my colleagues pointed out when you were out of the room, you have a number of third-class offices where people do not work full time. As you well know, their income has to be supplemented. If not, these workers are in real trouble. In the large post offices at this last bargaining session, we were successful in getting a limit on the amount of overtime that a postal employee can work, just as they have done in the auto industry, because they were working an undue amount of overtime.

Step 5 does range between \$10,000 and \$10,500 and overtime would add another 15 or 20 percent to that and bring that income up to \$11,000 to \$11,500. On the other hand, when you start talking about disposable income, you have to look at the plight of the postal workers.

The Bureau of Labor Statistics has data on what income it takes to raise a family of four in an urban area and that is \$10,000 or \$11,000 a year. They talk about adequate income to raise that family of four and then they talk about \$12,000 a year.

Senator Randolph has pointed out that you have got a number of industries where semiskilled and unskilled people are employed, and they do not come anywhere near that. The Postal Service employee in the past few years has become better off in that respect.

Senator RANDOLPH. He is not the automobile mechanic or the plumber.

Mr. LEWIS. Or the TV repairman.

Senator RANDOLPH. Off the record.

[Discussion off the record.]

Senator RANDOLPH. I was delighted when I was not in government to have the opportunity to work overtime. I realize that causes problems for those who only have a certain number of hours of labor. I want to again say that I want a productive worker to be paid just as

high a wage as is possible commensurate with the whole strength of our economy fitted together, as it must be if we are to have it working in unison.

I believe in a high standard of living for all workers. I believe in the quality of life for all people. This is fundamental. We must have it insofar as possible.

Talking about the pay here, the blind vendor is not up to the pay level you are talking about, is he? No. He has an average pay not of the \$10,000 or \$11,000, but the blind vendor has an average wage, it is something like \$7,400. I only want the record to show that those persons need income. Is that right, Mr. Nilan?

Mr. NILAN. Correct, Mr. Chairman. I was just looking at the pay schedule for many thousands of our members in the maintenance craft who are janitors and various others handling manual or menial tasks; their starting salary is \$7,294 a year. The average would be around \$7,800.

I do not have the figures, but I am sure there are probably at least 25,000 or 30,000 workers that are in these pay levels, low pay levels which our organization is, along with Mr. La Penta, actively trying to bring up their wages, because they are so far below the standards that Mr. La Penta referred to as for a family of four, based on the Bureau of Labor Statistics.

We all have people trying to take care of this.

Senator RANDOLPH. Certainly, there are the variances. We understand. I presume there will always be.

Mr. NILAN. I hope not. We will do our best.

Senator RANDOLPH. Certainly, we will do our best. I want to do the best I can for that blind vendor who I know only makes \$100 a month now. I will not place in the record the name of that person, but that is all that person is making. He has his facility in a postal operation.

Mr. La Penta, do you have further testimony?

Mr. LA PENTA. Mr. Chairman, I have a statement and I will just summarize it.

Senator RANDOLPH. It will appear in the record, of course, in complete form at the conclusion of your testimony.

Mr. LA PENTA. Even though my statement is short, it is repetitive and says some of the things my other two colleagues have said. Actually, what we have come before your committee really to ask is that you take a look at that one provision which provides for the exclusive—

Senator RANDOLPH. Section 7?

Mr. LA PENTA. Yes, sir. That is the part of the bill that we hope some consideration will be given to, and we pledge our efforts, Mr. Chairman, in seeking and arriving at a fair and just resolution of the matter in disagreement in that section of the proposed legislation.

Senator RANDOLPH. I appreciate that pledge that you have made, of course, with your viewpoint, naturally, being considered very carefully. I am hoping that we may have some common analysis of the case in point, so that would be helpful.

[The prepared statement of Mr. La Penta follows:]

STATEMENT OF JAMES J. LA PENTA, JR.,
NATIONAL ASSOCIATION OF POST OFFICE
MAIL HANDLERS, WATCHMEN, MESSENGERS
AND GROUP LEADERS, AFFILIATED WITH
THE LABORERS' INTERNATIONAL UNION OF
NORTH AMERICA, AFL-CIO, ON S. 2581
BEFORE THE SUBCOMMITTEE ON THE HAND-
ICAPPED COMMITTEE ON LABOR AND PUBLIC
WELFARE, UNITED STATES SENATE

DECEMBER 6, 1973

Mr. Chairman and Members of the Subcommittee:

My name is James J. LaPenta, Jr., and I am the Director of the Federal-Public Service Division of the Laborers' International Union of North America, AFL-CIO. I am representing the Mail Handlers Division of the Laborers' International Union which has exclusive recognition and bargaining rights for approximately 47,000 postal employees working as mail handlers in the United States Postal Service.

We want to thank the Chairman and members of the Subcommittee for holding hearings on S. 2581, a bill amending the Randolph-Sheppard Act.

We are opposed to the bill as written.

Section 7 of S. 2581 would require all income from vending machines in work areas in postal facilities to be turned over for the exclusive use of either blind vendors or state agencies for the blind.

The present statute provides that blind vendors receive as much of the vending machine income as is necessary to protect their standard of living.

The proposed legislation would change the present concept of the

Act which gives job opportunities to the blind to a concept that would provide a direct subsidy to blind vendors and to state agencies without, in our opinion, any real safeguards that jobs and training for the blind would be the paramount objectives.

We are not demeaning the objectives of the legislation, however, we do want to point out that monies from vending machines on the workroom floor are not public funds. This money comes from the pockets of employees.

The way the bill is written, it levies upon postal employees a tax in the form of a compulsory-charitable contribution. This is not fair to postal employees when they are singled out for this type of regressive taxation, while other employees of other sectors of the economy are not taxed. This is a "pickpocket" tax.

As you know, monies expended from these vending machine funds are for such things as scholarships for postal employees' children; gifts and donations to sick, retired, and deceased employees; charitable contributions; and recreational and social organizations designed to be used by postal employees.

S. 2581 also amends the Randolph-Sheppard Act and gives the Secretary of Health, Education, and Welfare the responsibility for enforcing the Act. The current law gives to each government agency the responsibility and authority for enforcing the programs under the Act in consultation with the Secretary.

In our opinion, the change hardly seems necessary since a recent report of the General Accounting Office shows that one quarter of the total blind stands on federal property are in postal facilities. This is not a fair way to reward the United States Postal Service for leadership in compliance with the Act. Secondly, the Postal

Service has begun implementation of their new regulations, "Operating Instructions for Food Service and Employee Recreational and Social Service Funds," a program that has been prepared as a result of the United States Postal Service's audit and investigation of the program.

The United States Postal Service and the postal unions have appeared before this Subcommittee for three successive years. An examination of the record and any review of meetings held between the postal unions and various representatives of the blind organizations will demonstrate that the postal unions have made very effort to reach a workable solution providing for more jobs, higher income, and training for blind vendors in postal facilities.

Postal unions have also worked with the Postal Service in formulating and implementing programs for the hiring and training of handicapped employees in the Postal Service not limited to the visually handicapped. And, I might add here again, that the Postal Service is a leader among federal agencies in programs for the handicapped.

The postal unions, like the Postal Service, have worked hard on behalf of employment opportunities for handicapped workers. We do not believe that the legislation as now proposed would promote this spirit of cooperation long in operation.

Indeed, we are fearful that if the legislation as proposed is passed, it would slow down and even halt the progress that has been made.

In conclusion, we want to again thank the Subcommittee for holding hearings. Hopefully, the hearings will not become solely an emotional matter. However, as we stated in our opening remarks,

we cannot support the enactment of the proposed legislation unless and until the exclusive funds provision is either modified or deleted.

We pledge our efforts, Mr. Chairman, at seeking and at arriving at a fair and just resolution of the matters in disagreement in certain sections of the proposed legislation.

Senator RANDOLPH. John, you are next.

**STATEMENT OF JOHN McCART, OPERATIONS DIRECTOR,
GOVERNMENT EMPLOYEES COUNCIL, AFL-CIO**

Mr. McCART. Mr. Chairman, I think the colloquy that the subcommittee has engaged in has been extremely enlightening, not only with respect to the pending legislation, but to larger matters as well. I certainly have no intention of burdening the record with redundant material. I ask that the statement we have presented formally to the subcommittee be incorporated in the record.

I would like to make just one or two general observations.

The Government Employees Council is comprised of 30 AFL-CIO unions, representing an excess of a million wage grade, classified, and postal workers. We certainly support the posture taken by the officials of the postal unions sitting at the table. Our council has an interest in the equity of other Federal employees in other parts of the executive branch, in the pending bill.

There are two or three considerations that I would like to bring to your attention. One is the question of the status of Federal workers in the problem area that is encompassed by the bill. We are deeply concerned about the ability of workers in our unions to negotiate their conditions of employment.

Senator RANDOLPH. I believe that is a right. I have worked for it.

Mr. McCART. Certainly. We contend that the food they eat and the beverages they consume at the worksite are part of their conditions of employment. We are concerned about what will happen to their right to negotiate with respect to this working condition if the bill passes in its present form.

We are not stating that as an objection to the bill, but as a legitimate concern. What will happen to the right to bargain in this area in the future?

As you are aware, this legislation poses a very delicate issue for us. The labor movement generally is dedicated to assisting the handicapped, many of whom are members of our union, in the Federal service. There are many blind employees in the Federal agencies who are members of our unions as well, and it certainly stands to reason that we would not take any step intentionally that would be detrimental to the handicapped generally and to the sightless in particular.

I think the problem that is really posed by this legislation is whether you can achieve its very laudable objective without depriving Federal workers of benefits they now have.

What, for example, is going to happen to the programs that the associations and welfare organizations now undertake in behalf of all the workers? Is this not a legitimate concern of employees with respect to the functions that the welfare organizations perform as outlined by my colleagues in the postal unions?

What will happen in the event a facility proves to be a losing proposition? We have all assumed that every operation undertaken by the blind, be it vending machines, be it cafeterias, be it stands, will be profitable. What will happen in the event there is a loss incurred? Who will bear the loss?

We have been striving throughout these series of hearings, Mr. Chairman, to find some equitable way of recognizing the needs of the blind, on the one hand, and to reconcile that with the legitimate needs of employees. We have not been able to come to a meeting of minds on the problem. That is the burden of my appearance—to present to you certain cautions, certain danger signals, to which the bill does not appear to address itself.

So, while we certainly subscribe to the intent of the legislation, we feel that there must be improvements so that the equities of all concerned parties will be adequately recognized.

Mr. Chairman, that concludes my statement.

[The prepared statement of the Government Employees Council, AFL-CIO, by Mr. McCart follows:]

Government Employees Council — AFL-CIO



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John A. McCart, Operations Director

STATEMENT OF THE GOVERNMENT EMPLOYEES COUNCIL, AFL-CIO, TO THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE ON S. 2581 (Operation of Vending Facilities by the Blind)

Mr. Chairman and members of the Subcommittee:

With utmost reluctance, we must advise the Subcommittee of our reservations about S. 2581 in its present form.

The Government Employees Council and the 30 AFL-CIO unions associated with it represent in excess of one million Federal workers. These unions reflect the three segments of Federal civilian employment - postal, classified, and wage board.

Mr. Chairman, our Council is fully aware of the zeal you have displayed over a long number of years in assisting all handicapped citizens, and particularly those who are sightless.

The intense interest you have exhibited in the problems of Federal and postal workers throughout your long and distinguished career in Congress has resulted in significant improvements in their status, pay, and working conditions.

At the outset, we must emphasize that the Council has no objection whatsoever to blind persons operating vending stands in Federal buildings, as they do now. They are as entitled as any other American citizen to engage in gainful employment to earn a decent livelihood for themselves and their dependents.

We are not unmindful of the useful contribution made by the handicapped to the economy of our country, including Federal service. Some years ago, the Federal Government as an employer embarked on a campaign to hire physically and mentally handicapped persons. Many have performed their assigned functions in an outstanding fashion. Nothing is more inspiring than to participate in a

ceremony recognizing the superior accomplishment of a handicapped employee to the mission of a Federal agency.

And many of the blind Federal workers are members of unions affiliated with the Government Employees Council. So, we are anxious that these men and women be able to participate fully in the social and economic progress of our country.

The problem with the pending bill, as we see it, is that it will not fully accomplish the purpose for which it was intended.

Under the present collective bargaining policy of the Federal Government in dealing with its employees, the general subject of employee participation in the administration of welfare funds - those derived from the operation of cafeterias and vending machines, for example - is a matter for negotiations.

We are confident that Congress does not desire to nullify such arrangements. On the other hand, it is the Council's view that enactment of S. 2581 in its present form would have that result.

One of the problems involved in the pending bill is that it will assist a group of handicapped citizens who certainly merit all encouragement possible in achieving economic independence. But in doing so, the measure will terminate benefits which other workers - postal and Federal - have received from welfare funds whose source of income includes vending machines and cafeterias. And these groups of Federal employees cover a significant number who are handicapped. Among these handicapped individuals are blind employees.

In essence, the problem confronting the blind vendors is a result of technological change. Who could have foreseen when the original Randolph-Shephard statute was enacted in 1936 that vending facilities would expand into such widespread use? Thus, it was impossible to provide for this contingency and its possible effect on the blind. It would be desirable to include in the current legislation some mechanism for review of such developments in the future so that

Congress can be aware of future changes and a more timely response can be made to the need.

Our objective throughout the deliberations of the Subcommittee on the pending legislation has been to recognize the needs of the blind, on the one hand, and postal and Federal workers on the other.

Is it possible to reconcile the legitimate aspirations of the blind vendors with the equities of employees of the Federal Government? The Council believes so.

We offer for consideration by the Subcommittee several recommendations to accomplish this objective -

1. Remove the exclusive assignment of vending machine income as it appears in Section 7.
2. Exclude vending machine income in Federal Government space not available to the public.
3. Where a union has collective bargaining status with a Federal agency, that union should be consulted prior to the installation or revision in the distribution of the funds of a vending facility.
4. Employees through their representatives should have some status in the arbitration and judicial process, if their interests are involved.

Mr. Chairman, we hope sincerely that it will be possible to revise S. 2581 so that the equities of all concerned can be met, while recognizing the justified needs of the blind. The Council will be happy to cooperate in attaining that end.

We are most appreciative of this opportunity to offer our comments on S. 2581.

Senator RANDOLPH. Thank you very much, John. I think that we have had testimony prior to today that the findings of the General Accounting Office in its report would substantiate the fact that individual blind vendors licensed under the act are losing their incomes to vending machines, is that right, John?

Mr. McCART. Certainly. My reading of the General Accounting Office report indicates that.

Senator RANDOLPH. And that is true in cafeterias, is it?

Mr. McCART. Yes. But I do not recall the extent to which blind vendors have participated in the cafeteria operations. I think it has been somewhat minimal.

Senator RANDOLPH. Those cafeterias, of course, operated for Federal employee welfare groups do take away I am sure—

Mr. McCART. Yes. I see your point, yes.

Senator RANDOLPH. I think it is clearly shown that the blind vendor program has been curtailed because of this competition. Certainly your chairman of the subcommittee has no desire to have employee groups go out of business. In fact I want them to be strong, but I want to eliminate the existing and potential competition which I think is now inherent to the injury of the vending program by the blind.

Now you have said you have a concern, others have a concern, to section 7.

I am asking you gentlemen, how in your individual or collective judgment can the need be met other than through the means provided in S. 2581?

Mr. McCART. I see you are glancing in my direction, Mr. Chairman. I will try to respond.

Senator RANDOLPH. How would you do this?

Mr. McCART. My postal colleagues I think have directed their comments to section 7, which would indicate that none of us has any reservation about extending the opportunities for the blind in the public areas of Federal and Postal activities. This might be a bit more difficult in Federal activities generally because of the lack of similarities.

So I think that is one area where there could be some clarification and improvement.

There is another, Mr. Chairman, where I think that the interests of all could be a bit better served. That is the absence of any standards or criteria for the Department of Health, Education, and Welfare to determine the conditions under which the existing and new facilities will be operated by the blind or the benefit of the workers. The special needs of the blind in constructing or leasing new facilities should certainly be accorded every consideration.

Some of my associates may want to add their comments. But there are two areas, section 7, with its possible limitation to the public areas of the Federal agencies, would be very beneficial, and second, if there could be some standard by which the Health, Education, and Welfare Department would make its decisions.

As we see the pending bill, if a group of employees or a union that has a legitimate interest in a vending facility as a condition of employment, be it a cafeteria or a stand or vending machine, they have no status, no status in the decisions that Health, Education, and Welfare and the State agencies will make.

There is an arbitration process in the bill. Employees and the representative organizations have no standing in that process. So there are two areas that we recommend the subcommittee address.

Mr. NILAN. If I may also say just for one moment that perhaps there is a misunderstanding about cafeteria operations, and I would like to briefly address myself to it.

In the Postal Service the cafeterias that are operated in the major postal operations are basically nonprofit operations. While it is true that the cafeteria committee hires a manager perhaps or somebody to administer the operations the prices charged and the food that is made available is all done on a hopefully break-even point. There is no profit remaining.

I would say as often as not that the cafeteria has trouble breaking even, rather than having any surplus, because any surplus is pumped right back into reduced costs. I think this is important insofar as postal cafeterias are concerned, those are the only ones I am familiar with. They are not just in theory but in practice nonprofit operations.

But most of them have the responsibility of trying to break even and a lot of them do not.

Unfortunately I did not bring, in response to your other question, some compromise language concerning the bill which was in conference last year between the House and the Senate, the Vocational Rehabilitation Act. At that time, your legislation was attached to this bill as an amendment, when it was in conference. I remember that we did discuss at that time some accommodation and language in the report which I do not have a copy of here today, which I think if it had been accepted by the conferees would have been agreeable as an amendment of the Vocational Rehabilitation Act.

I suggest that this might be, if we could have an opportunity perhaps now with counsel or yourself or whoever you might designate to perhaps go back, and review this language, a copy of which is in our files. Your counsel may have it, and maybe at least it would be a starting point to see if we could work out some accommodation.

I would say this, as we have before on behalf of our organization, we would like nothing better than to try to support some sort of accommodation which would permit our employee groups to have an opportunity to continue operating. We would be happy, Mr. Chairman, if you and the committee saw fit for some of us to sit down with counsel and see if we cannot get to some point at least where we would be in the ballpark on the legislation. We would be very happy to cooperate with you.

Senator RANDOLPH. Thank you very much. Mr. La Penta.

Mr. LA PENTA. I have not discussed this with my colleagues, but in reviewing your proposed legislation, especially on page 2, section 2, you point out that the potential exists for doubling the number of blind operators on Federal and other properties under the Randolph-Sheppard program within the next 5 years, et cetera.

I suggest the following kind of proposal. Is it possible? Could we ascertain what amount of money is going to be required in order to accomplish this laudable goal? Then, if we can get HEW, either under their aegis or under the aegis of the respective agencies, to file a statement of income, and then each one of those be taxed apportionately so that you would then meet the goal of providing the kind of funds you are asking for on page 2, section 2.

Perhaps we could even do more without having to take all of the funds.

Senator RANDOLPH. I am going to ask you to explore that further with Mr. Humphreys.

Mr. LA PENTA. I think this is an area, if we could get the proper kinds of reports from the agencies and real accounting of all of the moneys we could do this job even better than what is suggested in the legislation.

Senator RANDOLPH. Thank you very much. Any other comment?

Now I think the GAO report brought out certain statistics on the uses of funds by the postal employee groups. The combined net income reported in the New York metropolitan region, the central region and the western region totaled about \$1.7 million. Of that amount, gentlemen, \$87,000 or about 5 percent was assigned to blind vendors.

The other \$1.6 million was used for other things: for recreation and trophy costs, that would be \$647,000.

For gift certificates, for coffee, for turkeys, for scholarships, it ran about \$598,000 in that category. Retirement parties, gifts, about \$206,000; and radios and public address systems about \$72,000; and then other gifts about \$68,000.

Now the Postal Service's own regulations to authorize payment of—and I quote—"all or part of the profits" from vending machines to blind vendors—now would you comment on the statistics that I have used?

Mr. NILAN. Mr. Chairman, in commenting on the statistics, this is one of the areas which we mentioned in our statement. We think the GAO report did a job as far as it went, but not far enough as far as pinpointing more of the details in any of these 5 regions we are talking about and measuring up the number of postal installations that might have been involved. For example, in the New York region with the \$434,682 you are talking about here, we for example would be interested in knowing where this revenue came from, did it come from the funds of only two or three or four installations which it would appear reasonable to expect because the larger installations are the only ones where this money could accrue.

We would like to know at the same time if within these three, four or five installations how many blind persons were gainfully employed, and I might also add, Mr. Chairman, whether their income was consistent with \$10,200 or \$10,400 postal worker salary figure we are talking about. So it is difficult to analyze from the report itself, you get generalities in here, where at times you have to be more specific if you are going to really attack the problem.

Let's take New York City just as an example. We have no way of identifying out of that total amount how much came from vending operations of the largest postal installation in the country, as against how many, sightless people, may be gainfully employed in the installation, and also whether those people were getting at least the \$10,400 figure. We have no way of rationalizing or really knowing what we are talking about from this report.

That is when in our statement—we stated that it was fine as far as it went, but really if we are going to attack a problem, you have got to have more details on it. As we had mentioned back in 1971 when we testified, we faced right up to this issue, we did not try to ignore it.

We pointed out that it is appropriate, Mr. Chairman, that we address ourselves to a matter of obvious concern to the committee, mainly securing authentic and detailed information concerning vending revenue presently being received by the welfare committee, by the blind persons, reverting to blind associations, welfare committees, in detail so we can really know where this problem exists and to the extent it does.

So what we are saying is we can look at these figures and do not question them, but they are not specific enough to really know how severe the problem is.

We do know that in the New York metropolitan region there are probably three post offices there, postal installations wherein from 70 to 80 percent of this total revenue may be coming from. There is no way to identify in those post offices whether a sufficient number of blind vendors are being productively employed. So it is difficult to respond to this type of question based on the report.

I say again as far as it went, yes, but it did not go far enough in our opinion.

Mr. LEWIS. Could I address myself briefly to this. Let me use a personal example to try to highlight what I am saying. I happen to come from a small office in Burbank, Calif. It has probably 400 employees employed in the entire office altogether.

About 4 years ago or 5 years ago they put a new main office out in the outskirts of town. As a result, very few people actually go to the post office for their transactions. That office is not large enough—we did have at one time a blind vending stand in our lobby, but the business that was transacted, the profits that were made, were not sufficient to justify the man's putting in his time.

So you have many places—in my office, for example, in Burbank, and I have no idea what the revenue is, their net profit, but there is no blind vendor on any postal premise in that particular office. As a result, the profits that are obtained from the vending machines that are on the work room floor and available to employees only would be included in their figure for the western region, but would not be distributed to a blind vendor.

Senator RANDOLPH. I understand what you are saying there. Any other comment on this point?

I do not want to be misunderstood when I read these figures of where the money is going, what is being done with it. I am only concerned that a small portion of the money is going to the blind vendors, is that right?

Mr. NILAN. Which money?

Senator RANDOLPH. The money I have been talking about.

Mr. NILAN. This is coming from the employees, if I understand the report. The employees are buying the products and this is part of the revenue from the employees' purchase of vending products, unless I misunderstood the question and/or the report.

Mr. LEWIS. Maybe to understand, as far as the best of my knowledge goes, there are no employee vending machines in public areas. I can be wrong on this. But fundamentally they are in the workroom areas or swing room areas, they are available only to employees and operated by employee vending machines.

Senator RANDOLPH. I spelled out the figure of \$87,000 or about 5 percent was assigned to blind vendors. The other \$1.6 million was used for recreation, trophy costs and so forth and so on in the listing that I made. I was just saying, do you think \$87,000 is the proper amount?

Mr. NILAN. Mr. Chairman, this is what I tried to explain a few minutes ago. We have no way of knowing because there has been no analysis of the report concerning the income of blind vendors that may be in these particular installations where these reports were made, and we do not know whether or not the blind vendors should be receiving additional money or what the situation is. There is no way here to identify this. The \$87,000, if it is in, say, four or five post offices, where we think most of this income has been generated from, again depending on what the blind vendors income might be, in those instances it might be adequate, but we do not know.

We have no way of knowing. I do not think that anybody can look at this report since there is no income reports concerning the income of blind vendors in regard to the New York metropolitan region, for example.

Senator RANDOLPH. Mr. Nilan, you know about the proposed Postal Service handbook of operating instructions for food service and employee social and recreational funds?

Mr. NILAN. I received a copy of it several weeks ago, Mr. Chairman, right before your hearings.

Senator RANDOLPH. The estimate there is that each employee spends an average of \$1.30 per week with vending machines. On the basis of that expenditure, let us say 50 weeks a year, assuming a 10-percent commission on vending machine sales, the total net machine income would be approximately \$3.9 million. I am not sure that you can agree with that estimate.

Mr. NILAN. I do not know. I assume it is correct, Mr. Chairman.

Senator RANDOLPH. If we had that amount then, divided by this 600,000, that means an average vending machine profit of \$6.50 per employee per year. Would that be spelling it out correctly?

Mr. NILAN. If you are equating this with 600,000 postal workers, well, of course again the vending operations are probably in larger post offices.

Senator RANDOLPH. Well, we are talking about averages, of course. We have to do that. I am wondering if you would wish to say or wish not to say that you might want to give consideration to union dues being raised by a certain amount per year or voluntary contributions, let us say, of 54 cents a month per employee or \$6.50 per year, this would keep employee welfare groups operating at the same level that they are today, is that not true?

Mr. NILAN. Mr. Chairman, during your absence Senator Stafford addressed a similar question to us.

Mr. RANDOLPH. You do not need to repeat the answer.

Mr. NILAN. If I can just say this that our organization for the last 10 or 15 years has had an ongoing aggressive campaign to convince our local unions to do exactly what you are suggesting, to raise the dues sufficiently so that they can exist in all areas of organizational endeavor.

Unfortunately we have not been successful to date. I concur in what you are saying.

If our local unions could have a realistic dues compared to the private sector, and it is gradually going to happen, maybe within the next 10 or 15 years who knows, we may get up somewhere near the dues structure in the private sector, you are right, some of these programs could then be financed.

Senator RANDOLPH. You are criticizing your own members.

Mr. NILAN. And I have done it before. As late as last Saturday night in Iowa, I laid it right on the line because I found many of our local unions in Iowa had \$2.50 dues.

Senator RANDOLPH. I commend you.

Mr. NILAN. Thank you, Mr. Chairman.

Senator RANDOLPH. Now we must place this in a different perspective, that \$3.9 million, which amounts to only \$6.50 per year, as I indicated, per postal employee, would provide an annual income of about \$4,300 to every blind vendor now operating on Federal property. That is what it will work out to be. Why do we not pray that that happens?

Mr. NILAN. I would certainly hope their income can be increased, Mr. Chairman.

Senator RANDOLPH. If you did evangelistic work—where was it, in Iowa?

Mr. NILAN. In Clinton, Iowa, Mr. Chairman.

Senator RANDOLPH. I wish you could continue that work.

Mr. NILAN. I tell them that the price of unionism never comes cheap, and I impress upon them for the benefits they have enjoyed, both through the Congress, through efforts of such as yourself, and the efforts of our union, they should be paying a fair share of the cost.

Senator RANDOLPH. By doing this, they will do something that has a double return, they will be helping their union to be stronger, that is right, is it not?

Mr. NILAN. That is correct.

Senator RANDOLPH. They will also be helping that blind friend to make a living in this country, not be on welfare, charity, but that blind vendor to make the living which he or she now makes is far down the scale, Mr. LaPenta, from the others that are in the structure, and they work in the same building.

Mr. NILAN. Mr. Chairman, we have tried to convince our national conventions to establish a minimum national dues of not less than \$6 per member per month. We are going to try to do it again at our convention in August of this year as a minimum. And if we accomplish that, even that would go a long way toward our union dues and benefits structure up somewhat. We have done and are continuing everything possible to improve the union dues structure side of it to help finance all activities of our organization.

We are on record repeatedly on that question.

Senator RANDOLPH. Off the record.

[Discussion off the record.]

Mr. NILAN. I might add that my colleague advised me that if we had an opportunity to negotiate union security with the Postal Service which would require the "free riders" contributing to the union this would be very helpful also to our overall finances.

Senator RANDOLPH. We always have free riders, do we not?

I would like to insert as an appendix to the hearing record, the bill—S. 2581—and the GAO report and other appropriate tables, documents, and articles that have been written on this subject at the conclusion of the hearing.

I would want to say if you gentlemen have materials, that will also be included. I do not want it to be a closed door for you to supply information that you think would help us in the printed record as we begin to mark up the bill and hopefully bring it to the Senate floor.

Mr. Bowley and Mr. Black, do you have statements?

Mr. BOWLEY. I am with the American Postal Workers Union, and Mr. Nilan is our spokesman.

Senator RANDOLPH. If there is any material you wish to add at a later time, we will keep the record open for 2 weeks.

There may be something that will occur to you that you would like to have as a part of your testimony. If any of our guests today who are here have material they think would be helpful, we want to consider that also.

I hope that seven is a lucky number. That is the number of you gentlemen here today testifying. Seven sometimes brings 11.

I hope that \$7,400, the average wage of the blind vendor, can go up to that \$11,000 of the postal worker, you see. I do appreciate the spirit in which you have come to counsel with us; and if in the context of our hearing, the chairman has become a little perhaps earnest about certain matters, why I want you to know the reason for that was that I feel exactly as I stated, and if I just sat here around namby-pamby fashion, you would not feel very good about it.

You have feelings, convictions, and they should be expressed and provided in good taste.

I wish for all of you—and this can go on the record—a Merry Christmas and a Happy New Year, and continued efforts to improve the conditions of the blind vendors and the increased income to which they should be entitled.

Thank you.

[Whereupon at 12:08 p.m., the hearing was adjourned.]

APPENDIX

LIST OF COSPONSORS OF S.2581
AS OF DECEMBER 18, 1973

- | | |
|--------------------------------------|--------------------------------|
| 1. Senator Jennings Randolph | 20. Senator Vance Hartke |
| 2. Senator William D. Hathaway | 21. Senator Robert Dole |
| 3. Senator Edward M. Kennedy | 22. Senator Frank Church |
| 4. Senator Claiborne DeB. Pell | 23. Senator J. W. Fulbright |
| 5. Senator Robert T. Stafford | 24. Senator Harold E. Hughes |
| 6. Senator Robert A. Taft, Jr. | 25. Senator Clifford P. Hansen |
| 7. Senator Harrison A. Williams, Jr. | 26. Senator Pete Domenici |
| 8. Senator Frank E. Moss | 27. Senator Thomas J. McIntyre |
| 9. Senator Birch Bayh | 28. Senator Gaylord Nelson |
| 10. Senator James O. Eastland | 29. Senator Lee Metcalf |
| 11. Senator Milton R. Young | 30. Senator Quentin Burdick |
| 12. Senator Carl T. Curtis | 31. Senator Edward W. Brooke |
| 13. Senator Robert P. Griffin | 32. Senator Strom Thurmond |
| 14. Senator James Abourezk | 33. Senator Barry Goldwater |
| 15. Senator Daniel K. Inouye | 34. Senator Alan Bible |
| 16. Senator Hubert H. Humphrey | 35. Senator Thomas Eagleton |
| 17. Senator John L. McClellan | 36. Senator Charles Percy |
| 18. Senator Ernest F. Hollings | 37. Senator Edward J. Gurney |
| 19. Senator Walter F. Mondale | |

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 27 1973

Honorable Harrison A. Williams, Jr.
Chairman, Committee on Labor and
Public Welfare
United States Senate
4230 Dirksen Senate Office Building
Washington, D. C. 20510

RECEIVED

NOV 30 1973

Labor & Public
Welfare Committee

Dear Mr. Chairman:

This is in response to your request of October 17, 1973 for the views of this Office on S. 2581, a bill "To amend the Randolph-Sheppard Act for the blind to provide for a strengthening of the program authorized thereunder, and for other purposes."

In testimony before your Committee on November 16, 1973 the Department of Health, Education, and Welfare stated its reasons for suggesting amendments to S. 2581 and for recommending favorable action on it if it is correspondingly amended.

The Department expressed the view that the Randolph-Sheppard Act has proven to be an effective rehabilitation program and that specific provisions of S. 2581 would update and strengthen the program. It stated, however, that assignment of all income from vending machines on Federal property to blind licensees or to designated State agencies could seriously diminish the economic viability of cafeteria operations and erode the financial base of employee welfare activities. In testimony before your Committee on November 19, 1973, the General Services Administration and the Department of Defense concurred in that view and further expressed the view that provisions of S. 2581 which would add cafeteria operations to the Randolph-Sheppard program could have further deleterious effects on the provision of food services at Federal installations. The three agencies agreed that provisions requiring the Secretary of HEW to make findings which substantially impact on the management of other agencies are inappropriate and that such determinations should be the primary responsibility of the heads of the agencies most directly affected.

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HEW further stated that fair hearing procedures currently in effect obviate the need for binding arbitration. HEW also observed that statutory assignment of personnel and establishment of an additional supergrade position within HEW to help administer this program is an undesirable infringement of the managerial prerogative of the Secretary.

We concur in the views expressed by the three agencies in their testimony and, accordingly, recommend favorable consideration of S. 2581 if it is amended to take account of the suggestions proffered by the agencies.

Sincerely,

(signed) Wilfred H. Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference

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HARRISON A. WILLIAMS, JR., N.J., CHAIRMAN

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STEWART E. MCCLURE, STAFF DIRECTOR
 ROBERT E. NAGLE, GENERAL COUNSEL

United States Senate

COMMITTEE ON
 LABOR AND PUBLIC WELFARE
 WASHINGTON, D.C. 20510

March 20, 1973

Honorable Arthur F. Sampson
 Acting Administrator
 General Services Administration
 Washington, D.C.

Dear Art:

You will recall our recent telephone conversation during which we discussed the approval of the Social Security Payment Centers in Philadelphia, Chicago, and San Francisco, and the fact that these structures will include opportunities for blind persons to operate vending facilities. Shortly after our initial conversation, you returned my telephone call to advise me that the items to be sold by the blind vendors in the payments centers would not be restricted due to the possible operations of cafeterias. I am genuinely grateful for your cooperation in this vital matter.

As I pointed out, there is deep concern that restrictions on the items to be sold at vending facilities will severely limit the opportunities for blind persons to earn reasonable income. The current negotiations relative to the Bureau of Public Debt building in Parkersburg involve this very serious problem.

It is my strong hope that you will personally review this entire situation regarding the items for sale at vending facilities. I urge you to insure that opportunities for blind vendors are maintained and expanded in Federal buildings.

With sincere thanks for your attention to this matter and with best wishes, I am

Truly,

Jennings Randolph

COPY

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



APR 2 1973

Honorable Jennings Randolph
Chairman, Committee on Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter of March 20, 1973, stressing the importance of the blind vending stand program in Federal buildings. As I indicated during our recent discussions, the General Services Administration (GSA) is fully committed to this program, not only because of the opportunity it affords the blind, but also for the fine service it has provided Federal employees over the years.

Provisions for suitable vending stand facilities were included in the initial planning stages of the new Social Security Administration (SSA) payment centers to be constructed in Philadelphia, Chicago and San Francisco. We will work very closely with SSA officials to achieve our mutual objective of having these vending stands provide optimum opportunities for the gainful employment of visually handicapped operators consistent with the needs of our building occupants. You may be assured that these facilities will be operated on an unrestricted basis in accordance with your desire.

The West Virginia Department of Vocational Rehabilitation (WVDVR) will be authorized to operate an unrestricted facility at the new Bureau of Public Debt Building in Parkersburg. The development of the detailed plans for this facility will be coordinated fully with WVDVR. Of special interest to you will be the fact that we have provided Concessions Specialists in recent months to WVDVR to assist in improving operations and viability not only in Federal locations but in State and private buildings where WVDVR operates vending stands.

Let me assure you that I share your interest in this most valuable program. GSA will make every possible opportunity available for the initial establishment and long range operation of viable vending stand facilities across the nation.

Sincerely,

ARTHUR F. SAMPSON
ACTING ADMINISTRATOR

COPY

Keep Freedom in Your Future With U.S. Savings Bonds



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-176886

October 31, 1973

The Honorable Jennings Randolph
Chairman, Subcommittee on the Handicapped
Committee on Labor and Public Welfare
United States Senate

Dear Mr. Chairman:

Your letter of May 2, 1973, contained a request that this Office examine the circumstances under which blind vendors in five cities have been refused permission to establish vending operations in new Federal buildings and in another city where they are having to compete with employee association vending operations. Enclosed with your letter was a newspaper article which named six cities where such problems had occurred.

In response to your request we contacted Department of Health, Education, and Welfare and State agency officials responsible for administering the Randolph-Sheppard vending operations program. Also, we made inquiries of Mr. Richard Starnes, the writer of the article, as well as his primary sources of information which included Mrs. Majorie Boyd, author of a December 1972 article entitled, "Stealing from the Blind" which appeared in the Washington Monthly, and Mr. Durward McDaniel of the American Council of the Blind.

We found that in only one case permission had been refused to establish a blind vending operation in a new building. In four cases, blind vendors were not permitted to conduct the same type of vending operation in new Federal buildings as they had in their previous Federal locations. (In one of these instances the decision was successfully appealed and the blind vendor is in the process of establishing a new operation.) In the sixth case, negotiations are still in progress to establish a blind vending operation in a Federal building which is currently under construction.

Because some of the cases involved situations which occurred several years ago, records were not always available nor could State agency officials recall all the facts regarding

B-176886

each situation. Further, in discussions with Mr. Starnes, we were informed that the information for his article was obtained through a series of telephone conversations and that he could not provide documentation to support statements made in the newspaper article. Based on the information we were able to obtain, the circumstances surrounding these cases are as follows.

Houston, Texas

The newspaper article stated that:

"In Houston a postmaster refused to let a blind person set up a stand in a new post office building although four blind concessionaires had operated stands in the old buildings."

State officials advised us that the new building included a food service facility available to postal employees. The postmaster did not believe that another food service was necessary but he did offer to allow dry stands--no beverages could be sold--to be installed.

State officials did not believe it would be worthwhile to operate dry stands. Also, they advised us that they did not appeal the postmaster's decision because of other similar situations in the State. Further, because Postal Service regulations would not allow a blind vending operation to be placed near an employee work area, the desirability of this location as a site for a blind vending operation was reduced.

Des Moines, Iowa

This case concerned a blind vendor who had been operating in a postal facility. About 3 years ago, postal operations were moved to a new building. Although the blind vending operation was established in the new building, the space was considered undesirable by State officials because:

- the amount of space assigned was inadequate to generate much income,
- the location was in a storage area and away from pedestrian traffic,
- coffee was the only beverage which could be sold, and
- space had been assigned in the same building to cafeteria and vending machine operations.

B-176886

State officials advised us that it is a marginal operation economically. They also said that the commercial vending concern which controls the competing operations provides the blind vendor with an income supplement of \$1,800 annually and that the concern employs two blind hostesses who work at the cafeteria in the building. State officials have not filed any appeal.

Sacramento, California

About 4 years ago a new General Services Administration (GSA) owned building was completed. GSA approved operation of a dry stand for a blind vendor. The basis for this decision was that the building already had a cafeteria, and that the building population was too small to support both a cafeteria and a wet stand or snack bar.

State officials stated that they rejected the offer for the dry stand because they believed such an operation could not generate sufficient income.

Arlington, Virginia

State officials did not know of any instance where a blind vendor had been refused permission to operate in a new federally controlled building. An HEW official cited one situation which may be the one referred to in the newspaper article. A blind vendor who had operated a snack bar in an old temporary Federal building was given permission to operate two dry stands when a new building was completed.

An appeal was made to allow the vendor to operate a snack bar. A hearing was held, and the blind vendor won his case. We were advised that the blind vendor is now establishing a snack bar operation in the new building.

Washington, D.C.

District of Columbia officials have been attempting to get space assigned for a blind vending operation in the new Federal Bureau of Investigation building which is now being constructed. Although efforts are continuing, District officials believe there is little chance of obtaining permission for a blind vending operation because the Department of Justice has never previously approved such an operation because of security reasons.

B-176886

Pittsburgh, Pennsylvania

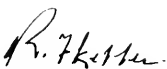
The newspaper article reference to two blind vending operations in Pittsburgh was not part of the article written by Mr. Starnes, but was inserted by a reporter from the Pittsburgh newspaper which carried the article. We were advised that the Pittsburgh operations were inserted to add local interest to the article.

State officials told us that both blind vending operations were satisfactory from an economic viewpoint and that it is common for blind vendors to have to compete with cafeterias or other vending concessions.

In our report on the review of vending operations on federally controlled property, which was issued to you on September 27, 1973, we addressed issues like those which are cited in the above situations. As pointed out in the "Potential for Increasing Blind Vendor Operations" sections of the report, stronger cooperative efforts on the part of State officials and Federal officials will be needed to expand the blind vending program.

We trust that this reply is responsive to your inquiry and, together with our September report to you, provides information which will assist the Subcommittee in its deliberations over the Randolph-Sheppard vending operations program.

Sincerely yours,


Comptroller General
of the United States

HARRISON A. WILLIAMS, JR., N.J., CHAIRMAN
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 ROBERT E. HAGLE, GENERAL COUNSEL

United States Senate

COMMITTEE ON
 LABOR AND PUBLIC WELFARE
 WASHINGTON, D.C. 20510

May 2, 1973

176886

Honorable Elmer B. Staats
 Comptroller General of the United States
 Washington, D.C.

Dear Mr. Staats:

As you know, the General Accounting Office is currently completing a study and audit directed by the Senate Subcommittee on the Handicapped relative to the sources and uses of vending machine income on Federal property as it relates to the operation of the Randolph-Sheppard Act for the Blind.

A related matter indicating an erosion in the positive attitude of Federal officials toward blind vendors operating under the Randolph-Sheppard Act has come to my attention. The enclosed newspaper article cites examples of such attitudes in Pittsburgh (U.S. Post Office and Courts Building, and Federal Building), in Houston, Des Moines, Sacramento, Arlington, Virginia, and Washington, D.C.

I would very much appreciate your immediate investigation of these cited circumstances and urge you to report to me your full findings of the details of these matters as quickly as possible. Such actions at the expense of the blind cannot be tolerated of Federal Government employees.

With best wishes, I am

Truly,

Jennings Randolph

Jennings Randolph
 Chairman
 Subcommittee on the Handicapped

Forward for action to:	
MWD	
Forward for information to:	
Messrs. Samuelson and Rouse, MWD (w/attach.)	
By: <i>[Signature]</i>	Date: 5/7/73
Reply or other action must be made within 12 days or	

UNITED STATES OF AMERICA
 GENERAL SERVICES ADMINISTRATION
 WASHINGTON, DC 20405



DEC 20 1973

Honorable Jennings Randolph
 United States Senate
 Washington, DC 20510

DEC 27 1973

Dear Senator Randolph:

Thank you for your letter of October 16, 1973, on behalf of the Randolph-Sheppard Vendors of America (RSVA) regarding the General Services Administration's (GSA) participation in the vending stand program for the blind. We have carefully studied the RSVA's memorandum to the Members of the Congress.

There are three basic issues involved in your inquiry; (1) competition from employee associations, (2) competition from cafeterias, and (3) competition from Minority Business Enterprises.

GSA regulations (41 CFR 101-19.206(b)) provide that, under certain circumstances and conditions, Federal employee welfare and recreational associations may share in the proceeds from vending machines which Federal employees patronize. These associations are comprised of employees of Federal agencies and are engaged in welfare and recreational activities officially sponsored by the employing agency. The Comptroller General's decision (32 Comp. Gen. 282, December 10, 1952) states that the General Accounting Office would not object to the continuation of this policy until clarifying legislation is passed to curtail such practices. No such legislation has been enacted to date. It is GSA's policy to prohibit the installation of vending machines by employee welfare associations if those machines would be in reasonable proximity to a vending stand or would otherwise be in direct competition with such a stand.

GSA has traditionally developed requirements for establishing concessions facilities on a case-by-case basis after carefully studying such factors as the building population, accessibility to the building, other facilities available, etc. Where possible, we depend on commercial facilities which are convenient to the building occupants, to accommodate the Federal employees for these services. Where this is infeasible and the factors indicate that a full-service food facility is required, the requirements for a cafeteria are developed.

It is a fundamental policy of GSA that Federal employees be provided with good wholesome food, well prepared, under sanitary, healthful and attractive conditions, at reasonable prices. To do this, the cafeterias which are operated

under commercial standards, must attract substantial patronage inasmuch as they provide a one-meal-per-day, five-day-per-week service. There is a widely held misconception that cafeteria operators are reaping substantial profits at the expense of the blind. Our cafeteria contracts limit operators to maximum profits from as low as two percent to a high of six percent of sales. There are no guarantees that contractors will realize the top allowable, however modest, profit figures. These cafeterias depend to a large degree on income from vending machines to enable them to remain viable. The inherent problems in attempting to manage viable feeding facilities have been greatly amplified within the last 12 months due to dynamic increases in operating expenses, most notably, food. Moreover, there have been substantial declines in the population of many Federal buildings.

This is exemplified in Philadelphia in the Gateway Building which has realized a deficit of \$15,500 in seven months, and again in the Federal Building which has lost \$5,500 in four months. Prior to the opening of either building, it was determined that a full food service would be required and they would be marginal operations. It was, therefore, determined that the blind stands would not be allowed to sell food items in direct competition with the cafeteria. Subsequently, brewed coffee and pastry items were authorized for these stands to achieve optimum benefits toward viability. Furthermore, the State licensing agency concurred with these arrangements at the time they submitted their applications for the establishment of these stands.

It was not the intent of our proposed regulations published in the Federal Register (37 FR 194), on October 5, 1972, to curtail, in any way, the operation of the blind operated vending stands presently authorized in GSA-controlled space. Nor was it the intent to impose a blanket restriction on the sale of food items by the blind with regard to the vending stands which are to be established in the future. Our proposal would have permitted the sale of food and beverage items in accordance with the provisions of the Act in specific cases where it was determined to be economically feasible.

GSA advised the Bureau of Visually and Physically Handicapped for the State of Pennsylvania, that a minority-owned gift and variety shop was being established in the U.S. Customhouse in Philadelphia, but no food items had been authorized for that concession. Subsequently, it was brought to GSA's attention

that the minority-owned concession was expanding its service to include the sale of food items. Immediate action was taken to direct the concessionaire to immediately discontinue the sale of the unauthorized items. It is GSA's intent to develop minority enterprises that provide services and products which do not compete with the services and products authorized by permit for the Randolph-Sheppard stands.

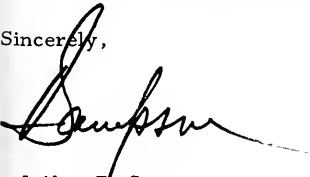
On April 17, 1973, the Pennsylvania State Agency for the Blind was advised of the aforementioned action and, at that time, GSA offered alternate space, which could be secured, for the relocation of the existing blind-operated vending stand as requested. It was explained that the new location would be vacated in August 1973, and GSA would work directly with the State Agency in developing the layout and necessary utility requirements. However, the space was vacated early and the State Agency reviewed the space on June 19, 1973. Currently, the space is still vacant pending the acceptance by the State Agency.

Reference is made to GSA requiring that employees of licensed blind operators be fully sighted. GSA does require that the operator be partially sighted or that an assistant with sufficient sight be employed at stands which have been authorized to brew coffee and/or prepare food on the premises. This is not an arbitrary decision made by GSA, but a requirement necessitated for reasons of sanitation and the safety of the blind operator. Sighted employees are not required at stands where there are no food or beverages sold; at stands where only prewrapped food or beverages are sold; or at stands where food and beverages are dispensed by automatic vending machines. GSA does not feel that this requirement adversely affects the Randolph-Sheppard program.

You may be assured that this agency will continue to be the leader in establishing Randolph-Sheppard vending stands as it has previously by traditionally recognizing this preference afforded to blind persons in GSA-controlled buildings.

I appreciate your interest in this important matter, and would be pleased to furnish any additional information you may desire.

Sincerely,

A handwritten signature in dark ink, appearing to read "A. Sampson", with a long horizontal flourish extending to the right.

Arthur F. Sampson
Administrator

VENDING STAND PROGRAM

FY 1973

Total Number All Stands	3,307
Federal Locations	874
Non-Federal Locations	2,433
 Total Gross Sales	 \$119,302,267
 Total Number of Operators	 3,601
Federal Locations	991
Non-Federal Locations	2,610
 Net Proceeds to Operators	 \$ 24,891,244
Federal Locations	6,903,589
Non-Federal Locations	17,987,655
 Annual Average Earnings of Operators	 \$ 7,452

Source: Department of Health, Education, and Welfare,
Office for the Blind and Visually Handicapped,
October 23, 1973.

U.S. DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
WASHINGTON, D.C. 20212



OCT 24 1973

Reference No. 300

Mr. Robert Humphreys
Special Counsel to Committee
on Labor and Public Welfare
U.S. Senate
Washington, D.C. 20510

Dear Mr. Humphreys:

In response to your telephone request of October 16 to the Bureau's Office of Wages and Industrial Relations, I am enclosing a table relating to trends in gross average hours and earnings for nonsupervisory workers in the Nation's manufacturing and trade establishments. Similar information is available for individual industries in the Bureau's monthly publication, Employment and Earnings. (See enclosed copy.)

I regret that no current studies are available on the structure and range of union dues, as you requested. The latest study I am aware of on the subject was done by the National Industrial Conference Board using 1967 information obtained from national and international unions. A reprint of their report is enclosed. The Bureau, however, does maintain a file of union constitutions and bylaws that is open to the public. Excerpts from five of the more recent union constitutions on file are included to provide you some indication of membership dues provisions.

If I can be of further assistance, please let me know.

Sincerely yours,

Julius Shiskin

JULIUS SHISKIN,
Commissioner

Enclosures

Average gross hours and earnings of nonsupervisory workers in
manufacturing and trade establishments, 1967 to 1972

Year	Manufacturing			Trade		
	Hourly earnings	Weekly hours	Weekly earnings	Hourly earnings	Weekly hours	Weekly earnings
			<u>Averages</u>			
1967	\$2.83	40.6	\$114.90	\$2.24	36.5	\$81.76
1968	3.01	40.7	122.51	2.40	36.0	86.40
1969	3.19	40.6	129.51	2.56	35.6	91.14
1970	3.36	39.8	133.73	2.71	35.3	95.66
1971	3.56	39.9	142.04	2.87	35.1	100.74
1972	3.81	40.6	154.69	3.02	35.1	106.00
			<u>Percent Changes</u>			
1967-68	6.4	0.2	6.6	7.1	-1.4	5.7
1968-69	6.0	-.2	5.7	6.7	-1.1	5.5
1969-70	5.3	-2.0	3.3	5.9	-.8	5.0
1970-71	6.0	.3	6.2	5.9	-.6	5.3
1971-72	7.0	1.8	8.9	5.2	0	5.2
1967-72	34.6	0	34.6	34.8	-3.8	29.6

Source: U.S. Department of Labor
Bureau of Labor Statistics
Employment and Earnings, United
States 1909-72 and Employment
and Earnings, March 1973

Selected Union Dues Provisions from ConstitutionsInternational Union of United Brewery, Flour, Cereal, Soft
Drink and Distillery Workers of America

Constitution - Adopted September 1971 - pages 16-17

1. Minimum dues charged by a local union

- a. \$5.00 per month for members earning \$2.50 per hour or less
- b. 6.00 per month for members earning \$2.51-\$3.50 per hour
- c. 7.00 per month for members earning \$3.51-\$4.50 per hour
- d. 8.00 per month for members earning \$4.51-per hour or more

Note: Per capita tax is sent to international from these minimum dues; this monthly tax was \$2.50 as of January 1972 and \$3.00 as of January 1973.

Boot and Shoe Workers Union (AFL-CIO)

Constitution (Amended 1970, page 19)

Minimum dues charged by a local union - \$4.50 per month

Maximum dues charged by a local union - \$7.00 per month

Per capita tax of international - \$2.50 per month

Air Line Pilots Association International,
Steward and Stewardess Division

Active members are required (page 37 of Bylaws) to pay monthly dues of \$8.00 (Latest bylaws on file - November 1970.)

International Association of Machinists and Aerospace Workers

Constitution April 1970

As of January 1972, minimum monthly dues of \$5.90 are required. Per capita tax of international was \$3.40 as of January 1972.

International Union of District 50 - Allied and
Technical Workers of U.S. and Canada

Constitution of April 1970, page 48

Monthly dues shall not exceed \$6 out of which a per-capita tax of not less than \$3.25 shall be payable to International Union of District 50.

Source: Constitutions and Bylaws on file
with U.S. Bureau of Labor Statistics



*REPORT TO THE SUBCOMMITTEE
ON THE HANDICAPPED
COMMITTEE ON LABOR
AND PUBLIC WELFARE
UNITED STATES SENATE*

*Review Of Vending Operations
On Federally Controlled Property*

B-176886

Department of Health, Education, and Welfare
General Services Administration

Department of Defense

Postal Service

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-176886

The Honorable Jennings Randolph
Chairman, Subcommittee on the Handicapped
Committee on Labor and Public Welfare
United States Senate

Dear Mr. Chairman:

This is our report on our review of vending operations on federally controlled property.

Our review was made pursuant to your request of August 9, 1972, and subsequent discussions with your office. As agreed upon with your office, we have not requested the Federal and State agencies involved to provide us written comments on the report.

We plan no further distribution of this report unless you agree or publicly announce its contents.

Sincerely yours,

A handwritten signature in black ink, which appears to read "James B. Roberts".

Comptroller General
of the United States

C o n t e n t s

	<u>Page</u>
DIGEST	1
CHAPTER	
1 INTRODUCTION	5
Legislation	5
Program administration	8
Program statistics	8
2 STATE AGENCY OPERATIONS	10
State administrative agencies	10
Actions to establish new or improved vending sites	11
Supervisory visits	14
Selecting and training operators	16
Income-sharing arrangements with Federal employee groups	19
Set-aside funds	21
HEW actions to guide and monitor State agency activities	23
3 VENDING OPERATIONS AT MILITARY INSTALLATIONS	25
DOD regulations and policies	26
Financial results	27
Military and State agency officials' views on blind-vendor operations	31
Potential for increasing blind-vendor operations	32
4 VENDING OPERATIONS AT POSTAL SERVICE FACILITIES	33
Regulations and policies	33
Financial results	36
Internal audit	38
Potential for increasing blind-vendor operations	40
5 VENDING OPERATIONS IN OTHER FEDERALLY CONTROLLED BUILDINGS	41
Financial results	42
Activities competing with blind-vendor operations	43

CHAPTER

	Potential for increasing blind-vendor operations	47
6	MATTERS FOR CONSIDERATION BY THE SUBCOMMITTEE	48
7	SCOPE OF REVIEW	50

APPENDIX

I	National summary of statistical data from States' annual blind-vendor reports for fiscal years 1971 and 1972	53
II	Accumulative blind-vendor program statistics (1953-1972)	54
III	Blind-vendor stands on Federal property by agency granting permit for fiscal year 1972	55
IV	Schedule of State staffing data	56
V	Schedule of program funding for fiscal year 1972	57
VI	Financial results of nonappropriated fund organizations' vending operations at six military installations and at the Pentagon	59
VII	Results of employee association vending operations at selected postal facilities for the most current year reported	60
VIII	Federal and District of Columbia Government buildings selected for review	61

COMPTROLLER GENERAL'S REPORT TO
THE SUBCOMMITTEE ON THE HANDICAPPED
COMMITTEE ON LABOR AND PUBLIC
WELFARE
UNITED STATES SENATE

REVIEW OF VENDING OPERATIONS ON
FEDERALLY CONTROLLED PROPERTY
Department of Health, Education,
and Welfare
General Services Administration
Department of Defense
Postal Service
B-176886

D I G E S T

WHY THE REVIEW WAS MADE

Pursuant to a Subcommittee resolution, the Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, requested GAO to review vending operations on federally controlled property.

As agreed with the Subcommittee, GAO obtained operating data on vending operations at federally controlled locations and determined whether blind persons were receiving preference in operating vending stands at such locations as required by law. GAO observed the potential for expanding blind-vendor operations at the locations visited and reviewed State and Federal administration of the blind-vendor program authorized by the Randolph-Sheppard Act.

At the request of the Subcommittee, GAO did not request written comments on the matters discussed in this report from the Federal or State organizations included in its review.

Background

The Randolph-Sheppard Act was enacted in 1936 to give preference to blind persons, whenever feasible,

for operating vending stands on federally controlled property.

The Rehabilitation Services Administration, an agency of the Department of Health, Education, and Welfare (HEW), is responsible for administering the blind-vendor program. U.S. agencies determine where and when blind-vendor operations can be established on Federal property they control.

State licensing agencies designated by HEW administer the blind-vendor program on federally controlled property in the 50 States.

Over the last 20 years

--the number of blind-vendor stands on Federal and non-Federal property has increased from 1,543 to 3,229,

--gross sales have risen from \$20.6 million to \$109.8 million, and

--average annual net earnings have grown from \$2,209 to \$6,996 for each stand.

In 1972, 3,583 blind persons were in the program; HEW estimated that 7,000 could be in the program by 1980.

FINDINGS AND CONCLUSIONSState agency operations

There are marked differences in how the program is carried out from State to State. The quality and quantity of services provided to blind persons participating vary.

Seven State agencies GAO reviewed reported numerous contacts and surveys to locate sites for new or improved vending operations, which resulted in an additional 61 blind-vendor stands established during 1972 on Federal and non-Federal property. The net increase, however, was 27, since 34 blind-vendor stands were closed.

Each of these States trains blind persons selected to become vendors and persons already operating vending stands, but the types and duration of training vary.

In fiscal year 1972, 6 of the States reviewed reported 121 persons had completed operator training; the other State did not maintain such information.

Inconsistencies existed in methods used to determine how income from competing vending operations will be shared with blind vendors, resulting in significant differences in the amounts assigned to the blind. In many instances no income-sharing arrangements were made.

States are allowed to set aside portions of the revenue from vending operations for use in various purposes to support the program. States' policies vary as to

--the method used to determine how much each operator must contribute to the fund,

--how the fund is used to assist operators, and

--whether any fund is established at all.

Some States use the set-aside fund as the primary source of money to operate the blind-vendor program.

HEW has not developed minimum standards of program operation for State agencies. Officials recognize the need for providing program guidelines or standards and for making more evaluations of State agency operations but say these actions cannot be undertaken because HEW lacks people to do the work.

Vending operations at military installations

Vending operations in the Department of Defense (DOD) are extensive, but its regulations support and encourage vending operations that benefit the recreation and welfare of its personnel. This gives little consideration for the blind.

State agencies have often limited their efforts to establish blind-vendor stands at military locations because military officials have not been receptive to the idea.

Of 56 vending stands at 6 installations and the Pentagon, blind vendors operated 4. They had gross receipts of \$230,600 and total net income of \$38,000. Other vendors had gross sales of \$12.6 million and total net income of \$2.5 million from the remaining stands and nearly 6,000 vending machines.

Vending operations at military installations are, for the most part, non-appropriated-fund activities

which contribute to welfare and morale programs. Military officials said blind vendors could reduce money available for these programs. It was difficult to determine exactly how installations used net vending income.

State agency officials visited some of the military installations with GAO and identified several vending operations which they believed blind vendors could operate. These officials said lack of success at military installations has caused them to reduce their efforts to establish new stands there.

Four of the six military bases visited had no blind-vendor operations. A total of 46 such operations are located on the nearly 490 major military installations in this country.

Military officials must be more willing to grant vending operation permits to the blind, and State agency officials must increase their efforts to contact military officials for new permits if progress in this area on behalf of the blind is to be made.

Vending operations at Postal Service facilities

Blind-vendor stands are operated in some post office lobbies. Most vending operations at postal facilities, however, are located in or near work areas and are controlled by employee welfare associations.

GAO sent questionnaires to 291 postal facilities; 288 reported a total of 68 vending stands operated by the blind and 1 vending stand and 2,873 vending machines controlled by employee associations.

Employee associations had gross receipts of \$2.8 million (including commissions on vending machine sales by commercial enterprises) and a net income of \$1.6 million.

About \$86,800 of the net income was assigned to blind vendors under income-sharing arrangements; the remainder went for employee benefits, such as recreation programs, scholarships, and gifts.

GAO did not obtain financial data for those blind vendors having stands at the 288 locations, but for 10 blind vendors, 6 had net incomes of under \$3,000.

A Postal Service internal audit report, dated June 1971, concluded that management attention given to vending operations had not been sufficient to insure compliance with Federal policies and regulations.

Expanding the program will depend on postal officials' attitudes about establishing blind-vendor stands on postal property and assigning income to blind vendors. State agency officials must also be more active in dealing with Postal Service officials on these matters.

Vending operations at other federally controlled buildings

Blind-vendor operations are more prevalent in other federally controlled buildings than at Postal Service or DOD installations.

In the 38 buildings reviewed, blind operators controlled 35 stands and 279 vending machines, and nonblind operators controlled 18 stands and 393 machines. Blind

vendors had gross receipts of \$2.3 million and a net income of \$460,400, while employees' associations and commercial vending concerns had gross receipts of \$1.9 million and a net income of \$129,100.

Employees' associations used their income for such things as emergency loans to members, parties and picnics, and assisting hospital patients and their families.

However, certain activities compete with the blind-vendor program:

--Cafeteria operators are permitted to operate a vending stand or to receive income from vending machines as an incentive to maintain good cafeteria service.

--Minority business enterprises are placed in competition with a blind-vendor operation or established where a blind-vendor operation might have been placed.

Before the blind-vendor program in federally controlled buildings can be expanded, priorities among competing interests--the blind, minority enterprises, employee associations, and cafeteria operators--must be established.

MATTERS FOR CONSIDERATION
BY THE SUBCOMMITTEE

GAO has suggested certain matters that it believes the Subcommittee should consider in its deliberations on the blind-vendor program. (See p. 48.)

CHAPTER 1INTRODUCTION

On August 9, 1972, the Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, requested us to review and report on vending operations on federally controlled property. The suggested objectives of this review, which were contained in a Subcommittee resolution, included obtaining financial data such as gross and net receipts for blind and non-blind vendor operations, determining how these receipts were used, and recommending changes to the pertinent law and its administration as deemed appropriate.

The objectives of our review were to

- determine the types of operations on federally controlled property, their locations, and who controls them,
- obtain all available gross and net receipts data from the operations observed and determine how the data was used,
- estimate the potential for expanding blind-vendor operations on federally controlled property,
- review State and Federal administration of the blind-vendor program, authorized by Public Law 74-731, as amended (Randolph-Sheppard Act), and
- determine whether blind persons have been given preference in operating vending stands on federally controlled property as provided for in the law.

LEGISLATION

Assistance to States in rehabilitating handicapped persons to prepare them for gainful employment, including the blind, is provided under the Vocational Rehabilitation Act, as amended (29 U.S.C. 31). Services provided to the blind include the acquisition of vending stands and initial stocks.

In 1936 the Randolph-Sheppard Act (20 U.S.C. 107) was enacted to provide blind persons with remunerative employment, enlarge their economic opportunities, and encourage their self-support through the operation of vending stands on Federal property.

The act authorized operating vending stands on Federal property and stated that preference shall be given, so far as feasible, to blind persons licensed by a State agency. The head of each agency controlling the maintenance, operation, and protection of Federal property must prescribe regulations designed to insure that such preference is given provided that it does not unduly inconvenience agencies or adversely affect the interests of the United States.¹

The 1954 amendments to the act provided for the assignment of vending machine income to blind persons so that they could achieve and protect their preference if machines competed with blind-vendor operations.

The retention and use of proceeds for vending operations on federally controlled property has been discussed several times over the years. Existing legislation (31 U.S.C. 484) provides that all moneys received from whatever source for the use of the United States shall be paid into the Treasury, unless disposition of these moneys is specifically provided for in 31 U.S.C. 487. Disposition of proceeds from non-blind-vendor operations is not specifically provided for in that section.

In a report to the Congress, dated August 10, 1949 (B-45101), on our audit responsibilities with regard to employee associations, we stated that problems had been caused by the

--tremendous growth of income and expenditures incident to the activities of various employee recreation and welfare groups,

¹The act requires that agency regulations have Presidential approval. This authority was delegated to the Secretary, Department of Health, Education, and Welfare (HEW) in July 1971.

- withholding of such nonappropriated funds from the Treasury, and
- view of many departments that such moneys withheld are outside the purview of existing statute requiring deposit of funds into the Treasury.

Because of the importance of welfare and related activities in the Government service and because literal compliance with the statutes requiring deposit of all receipts into the Treasury was impracticable in some instances, the report recommended the enactment of clarifying legislation to reform and regulate "the entire haphazard structure of so-called 'welfare activities' in the departments and establishments of the Government * * *."

In view of the 1949 report to the Congress the Comptroller General was asked to advise on the practice of a Federal agency using funds received from vending machines for employee activities. A decision the Comptroller General rendered on August 29, 1952 (32 Comptroller General 124), stated that funds derived from vending machines on Government property are required to be deposited in the Treasury as miscellaneous receipts in the absence of express statutory authority to the contrary.

Shortly thereafter the Comptroller General was asked for a ruling on the disposition of proceeds from vending machines at locations having no blind-vendor operations. The request for the ruling pointed out that the profits from the machines were to be used for general welfare activities.

In a December 10, 1952, decision (32 Comp. Gen. 282), the Comptroller General stated that, although the legal authority was doubtful, we would interpose no objection to the continued use of proceeds derived by employee groups from the operation of such machines for employee general welfare activities pending enactment of legislation by the Congress as recommended in the 1949 report.

More recently, our General Counsel testified before the Subcommittee on Handicapped Workers in October 1971 that, since the Congress had not passed clarifying

legislation, we have continued to follow the policy of not objecting to authorized Federal employee groups retaining vending machine proceeds. As of August 1973, legislation had not been clarified.

PROGRAM ADMINISTRATION

Each State must prepare a plan describing its vocational rehabilitation program, including services to the blind, which, upon Federal approval, enables it to receive Federal grants. The plan must also designate the State agency or agencies to administer the program.

Under the Randolph-Sheppard Act, the Secretary of HEW designates a State agency to issue licenses to blind persons for operating vending stands. The act requires that this licensing agency be the agency that administers vocational rehabilitation services to the blind. The State licensing agencies also determine the types of stands to be established and their locations, provide licensed blind persons with necessary vending equipment and initial stock, report to the Secretary as required, issue program regulations, and provide a fair hearing for any licensee dissatisfied with a program action.

The Secretary is also responsible for surveying vendor stand opportunities for blind persons and issuing rules and regulations necessary to carry out the act.

The Rehabilitation Services Administration (RSA), an agency of HEW's Social and Rehabilitation Service, is responsible for administering the vocational rehabilitation program, including the blind-vendor program, at the Federal level. The Federal Government pays 80 percent of State program costs.

PROGRAM STATISTICS

In the last 20 years the number of blind-vendor stands on Federal and non-Federal property has increased from 1,543 to 3,229, gross sales have increased from \$20.6 million to \$109.8 million, and operators' average earnings have increased from \$2,209 to \$6,996 annually. Additional program data is presented in appendixes I, II, and III.

HEW officials told us that it is difficult to estimate the number of blind persons who are capable of operating a vending stand. They believe, however, that by 1980, about 7,000 blind persons could be in the program.

CHAPTER 2STATE AGENCY OPERATIONS

The State licensing agency, which administers the vending operations program, has the authority to issue rules and regulations governing the program. These rules and regulations, which must be consistent with the Randolph-Sheppard Act, may contain information on how activities, such as selecting vending sites, conducting training programs, providing management services, or operating set-aside funds¹ are to be carried out.

There are marked differences in how the program is carried out from State to State. Consequently, the quantity and quality of services provided to blind persons vary.

HEW's actions have, for the most part, been directed toward solving problems or approving program changes requested by State agencies rather than developing program guidelines and standards or evaluating State agency activities.

STATE ADMINISTRATIVE AGENCIES

The vending operations program is administered through either a

- licensing agency, which is the State agency designated to administer the program, or
- nominee agency, which is a private agency under contract with the licensing agency, to furnish services for the program.

However, the licensing agency retains full responsibility for managing and operating the program.

Four of the seven States we reviewed used only a State licensing agency. The others used both a nominee agency and a licensing agency. State licensing agencies and nominee

¹Portions of revenue from vending stand operations that State agencies collect and set aside for various purposes to support the program.

agencies receive funds to operate the vending stand program through Federal vocational rehabilitation grants, State vocational rehabilitation grants, and set-aside funds. There is no requirement that a minimum amount or percentage of the total Federal grant be used for the program or that States provide a minimum amount of their own funds. Appendixes IV and V have specific data on State and nominee agencies regarding staffing and funding.

ACTIONS TO ESTABLISH NEW OR IMPROVED VENDING SITES

The Randolph-Sheppard Act, as amended, requires the Secretary of HEW to make surveys of vendor stand opportunities for blind persons on Federal and other property. HEW has delegated this responsibility to State agencies and provided some financial assistance for this task.

Criteria used by States

Each of the seven State agencies we visited had its own criteria to evaluate the potential of a site for supporting a vending operation. These criteria most often included such factors as

- the amount of income the proposed operation can be expected to produce,
- competition in or near the building,
- availability of water and electrical lines as well as drains in the vicinity,
- cost to modify the space to accommodate the fixtures, and
- employee and daily visitor population.

Inconsistencies exist among State agencies' criteria. For example, of the 4 State agencies which have specific population criteria, 1 State requires a building population

of 1,000 to support a dry vending stand,¹ while the other 3 States require only 175 to 300; 2 States have different criteria for wet and dry stands, while the other 2 use the same criteria for both.

Site survey statistics

The 7 State agencies reported to HEW that they had made 370 site surveys during fiscal year 1972. During the same year on Federal and non-Federal property 61 new vending stands were established and 34 were closed--a net gain of 27--in these 7 States. Nationally, 1,496 surveys were reported with a net gain of 87 new vending stands on Federal and non-Federal property. Eleven States showed a net loss, and 11 showed no change in the number of vending stands.

Reasons for not approving locations

Federal and non-Federal personnel gave the following reasons for not approving vending-stand locations.

- A location could not support a vending stand operation.
- Agreements between the General Services Administration (GSA) and private cafeteria operators prohibit outside vendors from selling food.
- Commissions from vending machines currently servicing the building are being used to supplement cafeteria operations.
- A vending stand would cause undue congestion and would disrupt the accessibility to the lobby or other areas of the building.
- The population of the building is not large enough to support a vending operation.
- Suitable space is not available.

¹A dry stand, unlike a wet stand, does not sell beverages.

Factors affecting States'
site survey efforts

Several factors affect State agency efforts to survey potential vending operations.

- States have reduced or eliminated efforts to survey Federal sites, particularly military and postal facilities, because they have had little success. (Nationwide, during fiscal year 1972 Federal property had a net loss of 3 vending stands, and non-Federal property had a net gain of 90 stands as shown in appendix I.)
- States lack uniform criteria for determining when to make a survey and what factors to consider.
- State agency officials must rely on their own initiative and resources to learn where potential vending sites exist or will exist after new construction or renovations are completed.
- States will not make site surveys unless the possibility is very high that a new vending stand will be established.
- Some States place more emphasis on surveying private industry sites.

On the basis of fiscal year 1972 program statistics and our observations, efforts to survey sites for vending operations should be increased if the program is to expand.

SUPERVISORY VISITS

Representatives of licensing or nominee agencies make supervisory visits to vending stands to insure proper operation of the blind-vendor program. As a general rule, representatives visit vending stands at least once each month.

Of the seven States reviewed, only Massachusetts and Texas maintained records of the number of supervisory visits. California, the District of Columbia, and Illinois provided us with estimates; Maryland and Missouri could not estimate the number of visits.

The following table shows the number of actual or estimated supervisory visits representatives made in five States during fiscal year 1972.

<u>State</u>	<u>Number of visits</u>	<u>Number of vending stands (Federal and non-Federal)</u>	<u>Average number of visits per location yearly</u>
California	10,656 (estimate)	296	36.0
District of Columbia	1,108 (estimate)	75	14.8
Illinois	1,500 (estimate)	87	17.2
Massachusetts	680	40	17.0
Texas	3,997	160	24.9

During these visits, representatives may evaluate the operator on such matters as

- cleanliness and overall appearance of the stand,
- personal appearance of both manager and employees,
- management efficiency, such as payment of bills, effective purchase and control of merchandise, sales techniques, and completeness of weekly or monthly reports, and
- public relations, i.e., attitude and relationship with customers and employees.

Although it appears that representatives made a substantial number of supervisory visits in five States, they lacked satisfactory documentation supporting exactly how many visits had been made. None of the States could provide documentation showing what had been accomplished during these visits.

In addition to supervisory visits, blind-vendor operations in three States were also subjected to financial reviews by State auditors or certified public accountants which covered the period from fiscal year 1970 through 1972. The reviews did not include examinations of program operations.

SELECTING AND TRAINING OPERATORS

State licensing agencies are responsible for providing services, including preliminary training, to persons eligible as operators of vending stands. However, formal training of operators, such as classroom sessions and on-the-job training, is under the direction of the State licensing agency or the nominee agency.

Referral and selection of prospective operators

Rehabilitation counselors or specialists recommend blind persons for the vending program on the basis of their being able to meet the entrance criteria and their interest in operating a vending stand.

Part of the criteria for entering the training program is that the applicant must be at least 21 years of age, a citizen of the United States, and be blind, as defined in the Code of Federal Regulations (45 CFR 409.1(p)) pursuant to the Randolph-Sheppard Act.

An applicant is also subject to an evaluation of his psychological, emotional, socioeconomic, and vocational histories.

When an applicant has met the required criteria he goes through a final screening process, which determines whether he will be accepted into the program. The process may include a personal interview with an official of the State vocational rehabilitation agency or the licensing agency (as in Maryland and the District) or an evaluation by a screening committee (as in Illinois). Formal training for applicants starts after acceptance into the program.

Training

The three basic types of training provided by States in our review are

--preliminary or provisional on-the-job training,

- formal training, including classroom study and on-the-job training, and
- in-service training.

Of the seven States, only Massachusetts and Texas provide preliminary or provisional on-the-job training designed to familiarize the applicant with work situations. The applicant is assigned to a vending stand under the supervision and guidance of a licensed operator. At the end of the period, the applicant is evaluated and the State agency personnel determine whether the applicant is qualified to proceed to formal training.

Formal training is provided by all States and consists of classroom and on-the-job training.

Some of the important areas covered in classroom training are

- bookkeeping and accounting skills necessary for operating an enterprise;
- merchandising, purchasing, and display;
- customer relations;
- food preparation;
- markup of merchandise and percentage of gross profit; and
- sanitation and legal aspects of food handling.

The District, Maryland, and Massachusetts do not provide classroom training. Training consists primarily of on-the-job experience.

During on-the-job training, applicants are judged through stand operators' progress and evaluation reports and through licensing or nominee agency supervisors' observations. After on-the-job training, successful trainees are licensed (certified by the licensing agency to operate a vending stand) and assigned to a vending stand, if available.

If an applicant is not successful, he can be given additional training or withdraw from the program.

. Only two of the seven States, Illinois and Maryland, provide for periodic in-service training for licensed operators. These training activities may include workshops, seminars, or conferences, tailored to improve and develop operators' management skills and to exchange views and ideas on ways to improve the program.

Number of persons trained and placed

During fiscal year 1972, 121 persons completed operator training in 6 of the States we reviewed; 58 persons had completed or had substantially completed their training and were waiting for a vacancy or needed some additional experience before placement.

INCOME-SHARING ARRANGEMENTS
WITH FEDERAL EMPLOYEE GROUPS

Section 101-19.206 of the Federal Property Management Regulations states that employee welfare and recreation groups and blind vendors can share operations and income from vending machines. The regulations provide that the Regional Administrator of GSA and the Commissioner of RSA must agree upon the conditions for sharing after consulting with the sponsoring Federal agency. These regulations apply to all property owned, leased, or occupied by the Federal Government over which GSA has control.

Federal agency regulations provide that a portion of the income from vending machines, which are located within reasonable proximity to and which are in direct competition with a licensed vending stand, be assigned to a blind operator. Regulations of several of the agencies state that a vending machine shall be considered in reasonable proximity and in direct competition with a vending stand if the machine contains the same articles as the stand and is located so that it attracts customers who would otherwise patronize the stand.

Federal agencies have not applied these regulations adequately, and their practices have not been uniform. For the most part, licensing or nominee agencies do not have written policies regarding how income is to be shared between blind persons and other competing groups. Arrangements for assigning income were negotiated on a case-by-case basis and were either verbal or written.

We found that the percentage of competing operations income which blind vendors operating in Federal facilities received varied from State to State. For example, in some buildings in the District, Texas, and Maryland, blind vendors were receiving 100 percent of the profit from some machines and profit from the remainder of the machines went to various employee associations or, in the case of the District, to the Government Services, Incorporated.

In other locations in Maryland and Texas and in some locations in California, blind vendors were sharing vending machine commissions on a percentage basis. They received

from 10 to 65 percent of the gross income from competing vending operations. In other instances blind vendors did not share any of the profit from competing operations, even though State agency officials had attempted to arrange it.

At four Federal complexes in Missouri, blind vendors were sharing from 25 to 50 percent of their vending machine profits with employee associations--about \$25,000 of the total \$78,000 profits in 1972. In two Illinois locations, blind vendors were paying 8 to 10 percent of net sales to employee associations.

Assignment of vending machine income was also inconsistent at postal facilities (See pp. 33 and 34.)

SET-ASIDE FUNDS

States' methods to set aside funds for use in operating the blind-vendor program vary as to how much each operator must contribute to the fund and how funds are to be used to assist blind vendors. Some States do not set aside funds.

The Randolph-Sheppard Act specifies that States may set aside funds from vending stand proceeds to maintain and replace equipment, purchase equipment, provide management services, and insure a fair minimum return to operators.

Fourteen States, Guam, Puerto Rico, and the Virgin Islands, do not set aside funds for operating their vending stand programs under the Randolph-Sheppard Act. Of the seven States included in our review, only Massachusetts does not set aside funds.

Reasons for not using
set-aside funds

Massachusetts officials informed us that they do not set aside funds because, in their opinion, it would

- reduce the incentive of some operators because they would know that they would be guaranteed a fair minimum return from the fund,
- invite operators to report less than actual gross revenues so that they would pay less into the fund,
- make it necessary for the Commission for the Blind to employ a large staff of police-oriented counselors, and
- reduce the extent of proper care of operators' equipment because they would not have to pay to repair or replace it.

Although Massachusetts does not set aside funds, the State Commission recommends that a reserve fund be established for each stand on the basis of the type and complexity of the equipment used. The operator agrees to use this fund only for emergency repairs and for replacing minor equipment and to make weekly deposits of not less than 3 percent of his gross sales until the stipulated amount is reached.

States that use set-aside funds

States that set aside funds require operators to contribute monthly to a set-aside-fund account. The amount to be set aside varies from State to State. However, most States set aside a percentage of either gross sales or net profit. For example:

- In Missouri, 10 percent of net profit must be deposited into the fund.
- In Maryland, funds are set aside by an administrative levy on gross sales according to the following formula: First \$1,000, no levy; \$1,001 to \$4,000, 8 percent of gross sales; \$4,001 to \$6,000, 9 percent; and above \$6,000, 10 percent.
- In California, the current fee schedule ranges from \$1 for monthly gross sales of less than \$1,000, to 5.8 percent of gross sales of \$8,500 or more.
- In the District, funds are set aside monthly on the basis of gross sales plus vending machine income, according to the following formula: First \$400, no levy; second \$400, 6 percent; third \$400, 8 percent; everything over \$1,200, 9.5 percent.

Use of set-aside funds

In the six States we found that funds were used for maintaining, replacing, or purchasing new equipment; providing management services; and guaranteeing a fair minimum return to blind operators. Only three of these States--the District, Illinois, and Missouri--guarantee a fair minimum return to operators: \$95 a week in Illinois, \$400 a month in the District, and \$300 a month in Missouri.

RSA officials told us that set-aside funds should be used to make payments into a pension fund for blind vendors. Set-aside funds cannot be used for this purpose because the Randolph-Sheppard Act does not authorize it.

Because a great share of the blind-vendor program is funded by blind vendors' payments into set-aside funds (see app. V) it would seem that set-aside funds should be used for any reasonable purpose that would benefit blind vendors.

HEW ACTIONS TO GUIDE AND MONITOR STATE AGENCY ACTIVITIES

According to HEW, although it recognizes the need for providing program guidelines or standards and for making more evaluations of State agency actions, it lacks manpower to do so.

HEW resources spent for the program

RSA does not maintain separate records on the money or manpower used to administer the blind-vendor program. However, RSA officials estimated that less than 2 man-years of professional staff time was spent on administering the program in the headquarters office during fiscal year 1972 at a cost of \$45,000 to \$50,000. No significant increases in money or staff are expected any time soon. Officials could not estimate regional office efforts but believed they were minimal.

Services provided by HEW

Two types of services have been provided to State agencies: (1) solving problems, such as interpreting policy questions or negotiating with Federal agencies when State agencies needed assistance, and (2) approving changes to State plans, rules and regulations, and set-aside fund computation schedules.

Other services provided to a lesser extent included preparing training seminars for State agency personnel, compiling program statistics, and reviewing State agency operations.

Necessary program actions by RSA

RSA officials stated a need to

- establish minimum training requirements and to work more with States which have weak training programs,
- instruct States on which factors they should consider in evaluating the potential of a site as a future location for a vending operation,

--make more management or program reviews of State agency operations and follow up on actions in response to recommendations which detail the results of the reviews, and

--require and review additional reports from the States, which would provide information on such matters as program personnel, Federal expenditures, training costs, assignment of vending machine income, and the number of blind assistant operators or employees.

RSA officials said they had not accomplished these tasks because they lacked manpower. They considered the level of effort of the headquarters staff--less than 2 man-years--and the minimal regional office assistance inadequate to accomplish necessary actions. Also, no contracts have been awarded to undertake work which these officials stated could benefit the program.

We did not attempt to make a manpower study or assess the priority of all tasks to be done. It is apparent, however, that several major management actions which could assist in improving program administration have not been undertaken.

CHAPTER 3VENDING OPERATIONS AT MILITARYINSTALLATIONS

Vending operations on property controlled by the Department of Defense (DOD) are extensive. However, blind-vendor operations are limited at some locations, and other locations have none at all. This has occurred because DOD implements regulations in a way which supports and encourages vending operations that benefit the recreation and welfare of military and civilian personnel and gives little consideration for the blind. Also, according to State agency officials, efforts to establish blind-vendor stands at military locations have often been limited because military officials have not been receptive to the idea.

We reviewed vending operations at six major military installations and at the Pentagon,¹ as summarized below.

<u>Location</u>	<u>Controlled by blind persons</u>		<u>Controlled by others</u>	
	<u>Stands</u>	<u>Machines</u>	<u>Stands</u>	<u>Machines</u>
Fort Belvoir, Va.	-	-	6	1,041
Norfolk Naval Shipyard, Va.	1	-	12	356
Charleston Naval Base, S.C.	1	-	-	361
Fort Riley, Kan.	-	-	-	739
Lackland Air Force Base, Tex.	-	-	17	1,912
Camp Pendleton, Calif.	-	-	11	1,387
Pentagon	<u>2</u>	<u>-</u>	<u>6</u>	<u>188</u>
Total	<u>4</u>	<u>-</u>	<u>52</u>	<u>5,984</u>

¹ Although the Pentagon is actually a GSA building, we discuss its vending operations in this chapter because DOD plays a significant role in determining what operations are permitted in the Pentagon. Although the 7 installations visited represented a small percentage of the nearly 490 military installations in the country, they were important in terms of size and number of servicemen involved. Also, each branch of service was represented and the installations were geographically dispersed.

With the exception of the Pentagon, which houses 24,000 employees, each location had numerous buildings spread over a large area with no fewer than 14,500 military and civilian personnel.

DOD REGULATIONS AND POLICIES

DOD regulations, while conforming to the requirements of the Randolph-Sheppard Act, emphasize the need for and importance of an adequate morale and welfare program which is not to be jeopardized by blind-vendor operations. Implementation of these regulations has severely limited the blind-vendor program on DOD property.

DOD has traditionally used nonappropriated fund operations, such as post exchanges, movie theaters, and restaurants to foster the morale and welfare of its personnel. Revenue from these activities is to be used to supplement appropriated funds for this purpose.

DOD regulations, dated August 1963, state that a blind person licensed by a State agency will be given preference to operate a vending stand where feasible. A local commanding officer may deny or revoke this preference if security or sanitary standards are not met or for any other reasons where the interests of the United States would be adversely affected or DOD would be unduly inconvenienced.

The regulations provide further that permission to operate a blind-vendor stand will not be granted:

"* * * if to do so would seriously affect the primary mission of the Department of Defense by reducing revenue below the point which is necessary for the maintenance of a reasonably adequate morale and welfare program. * * * No permits should be granted that will place the morale and welfare program in jeopardy."

According to DOD regulations, preference to blind vendors is protected from unfair or unreasonable competition by vending machines. The regulations provide that a blind vendor is to acquire the income from these machines, if they are operated in reasonable proximity to a blind-vendor stand and if they sell the same items.

A final, important provision of the DOD regulations is that if a local commander and the State agency cannot agree on granting a permit to operate a blind-vendor stand or on the terms of a permit, the State agency can appeal such disagreements. DOD administers this appeal procedure.

The Army, Navy, and Air Force have regulations which essentially repeat the provisions of the DOD regulations regarding blind-vendor stands. However, in implementing these regulations, DOD officials have limited the blind-vendor program. In fiscal year 1972, 46 of 878 blind-vendor stands on federally controlled property were on DOD property.

FINANCIAL RESULTS

According to the most recent financial data available, annual gross sales from vending operations at the seven locations visited were over \$12.8 million. Of this amount, blind vendors' gross receipts were about \$230,600, while various nonappropriated fund organizations and commercial vending concerns had gross sales of \$9.3 million and \$3.3 million, respectively. In addition, the nonappropriated fund organizations earned \$900,000 in commissions from vending machines to bring their total gross receipts to \$10.2 million. (See appendix VI.)

The total net income blind vendors earned from four operations at three military installations was \$38,000. (This represents all blind-vendor operations at the seven installations.) The net income of the various nonappropriated fund organizations from vending operations at these seven locations totaled about \$2.5 million. Generally, commercial concerns could not furnish us net income data from their operations at the locations we reviewed because their accounting records were not organized to show this data.

Blind vendors received income from 4 vending stands and no vending machines, while nonblind operators received income from 52 vending stands and 5,984 vending machines.

The four blind vendors, who had a total annual net income of \$38,000, had individual incomes ranging from \$4,000 to \$16,000. These vendors received no income from operating vending machines or through assignment of income from competing machines or other vending operations.

Non-blind-vendor income

Various nonappropriated fund organizations shared the annual net income of \$2.5 million for nonblind operators. At one installation the annual net income from vending machines was \$4,500; at the remaining installations, annual net incomes ranged from \$156,000 to \$792,000.

Because of the type of financial records maintained, we could not obtain net income data on each individual vending operation but only for all vending operations at an installation. We were able, however, to obtain individual gross receipts data for most of the operations.

The 52 vending stands operated by nonblind organizations had total gross receipts of \$5.5 million and total net income of \$636,800. For all vending machine operations, gross receipts totaled \$4.8 million, including commissions of \$900,000 on vending machine sales by commercial enterprises, and the net income was \$1.8 million. However, a disadvantage is that machines are often located over a large area on a military installation, both inside and outside of numerous buildings, which makes servicing them difficult. In several cases, machines were grouped in a building, which made them easier to service.

In nine cases at three of the locations reviewed, we were able to obtain data which showed that gross receipts from vending machines grouped in a building ranged from \$27,000 to \$86,000. Since total vending machine results showed that net income exceeded 30 percent of gross receipts, all of the locations where machines were grouped in a building appear to have the potential to financially support one or more blind persons.

Use of income by nonblind vendors

The majority of nonblind vendors are the post exchange systems of the various services--the Army and Air Force Exchange Service, the Navy Exchange, the Marine Corps Exchange--the Special Services, post central welfare funds, employee cooperative associations, post restaurants, and open messes. These organizations, for the most part, operate on nonappropriated funds and must abide by DOD regulations.

Determining how these organizations used net income was difficult, since the money passes through several administrative organizations until it reaches the organization which provides direct services. The following examples will demonstrate the complexity of following funds to determine their use.

All net income from three installations' Post Exchange operations included in our review is forwarded to the Army and Air Force Exchange Service Headquarters in Dallas, Texas. The Exchange Service uses some of these funds to finance its operations.

Dividends declared by the Exchange Service are paid to the Army and Air Force Central Welfare Board in the District, where they are apportioned to the two services' central welfare funds. Central welfare funds then allocate funds to commands, which in turn allocate funds to camps, posts, and stations to provide recreational activities and equipment. Sizable amounts are retained at the central welfare fund levels to finance major projects, such as construction of facilities to house nonappropriated fund activities at military installations.

The Marine Corps and Navy also have central organizations that receive and retain a portion of net receipts from installations. For example, for the fiscal year ended January 1973, the Post Exchange at a major installation earned a net profit of \$1,824,000 from all operations, including vending operations. The net profit was distributed as follows:

Installation recreation fund	\$ 900,000
Central construction fund	880,000
Retained by the Exchange for various purposes	<u>44,000</u>
	<u>\$1,824,000</u>

The Navy Exchange divides its net receipts between local and national morale and welfare programs. One naval installation shares 60 percent of net receipts (on the basis of sales) among three components--the Naval Station, the Naval Hospital, and the Naval Weapons Station. The Commanders of these activities are responsible for using these funds in

addition to appropriated funds to provide morale and welfare programs. The remaining 40 percent of the net receipts are forwarded to a pool of funds controlled by the Chief of Naval Personnel for morale and welfare programs throughout the Navy.

MILITARY AND STATE AGENCY OFFICIALS'
VIEWS ON BLIND-VENDOR OPERATIONS

Military and State agency officials expressed opposing views regarding the feasibility of blind persons operating vending stands at military installations.

Military officials' views

At a location which had one blind-vendor stand, officials did not foresee program expansion because they believed more blind-vendor stands would jeopardize cafeteria operations run by a commercial concern or that the stands could not compete with other operations, such as cafeterias and mess clubs.

Officials at another base informed us that a blind vendor could encounter several problems operating there, including theft, regulated prices, sanitation requirements, competition from other operations, and rising labor costs. Officials at this base and at one other said the Army and Air Force Exchange Service regulations have no provision specifically considering the blind in selecting contractors to carry out operations.

Military officials also expressed the following concerns.

- Exchange Service operations are exempt from certain State taxes whereas blind vendors would not be exempt and would have to charge higher prices.
- Blind vendors would need to be supervised carefully.
- Expanding the blind-vendor program could possibly reduce the funds available for the morale and welfare programs which are earned from various enterprises, including vending operations.

Although military officials acknowledged that DOD regulations require that preference be given to the blind to operate vending stands, they did not express any support for the program.

State officials' views

We asked officials of the State agencies for the blind for their views on establishing or expanding the blind-vendor program on the military installations we visited.

An official of one State agency toured a military base with us and later concluded that five snack-bar type operations appeared feasible for operation by blind vendors. This base had no blind-vendor operations. Base officials told us that they would consider any applications from blind persons to operate a vending stand.

At another base having no blind-vendor operations, a State official said a blind person could probably control one group of vending machines. Base officials were not sure whether a blind person could handle the operation.

At another base, a State agency official said blind persons could operate 11 vending operations. Base officials gave several reasons why blind-vendor stands would not benefit the base, the main concern being a loss of revenue to the recreation fund.

Several State officials told us they have not made much of an effort to establish blind-vendor stands on military bases because of the lack of success experienced in the past and the higher rate of success in establishing stands in private industry.

POTENTIAL FOR INCREASING BLIND-VENDOR OPERATIONS

Four of the major military bases we visited had no blind-vendor operations. State agency officials believed that blind persons could possibly operate several of the existing vending operations at three of these bases. We have been advised recently that arrangements are being made to establish a blind-vendor operation at the fourth base.

To expand the blind-vendor program on military bases, military officials must be willing to grant more permits for blind-vendor operations and State agency officials must try harder to contact military officials for these permits.

CHAPTER 4VENDING OPERATIONS ATPOSTAL SERVICE FACILITIES

Although blind vendors operate stands in some post office lobbies, most vending operations at postal facilities are located in or near work areas and are controlled by employee welfare associations. As a result, opportunities for blind-vendor operations generally have been limited to that part of the postal facility accessible to the public. In addition, postal officials have interpreted Postal Service regulations in a manner that has not been advantageous to the blind, and regulations on assigning vending machine income to blind vendors have not been applied consistently.

We attempted to obtain data through questionnaires on vending operations at 291 major facilities, of which 285 are first-class post offices, located in 3 of the 5 postal regions--the New York Metropolitan Region, the Central Region (Chicago), and the Western Region (San Francisco). We visited nine of these locations. Our sample was selected primarily on the basis of postal revenues reported by over 5,100 major facilities.

Over 98 percent of the facilities responded to our questionnaires. Responses showed that employee associations were controlling 1 vending stand and 2,873 vending machines, plus an undetermined number of machines not listed on the questionnaires. Blind vendors were operating 68 vending stands at these locations. They represent 29 percent of the 237 blind vendors who operated at postal facilities during fiscal year 1972. Although blind persons were operating many more vending stands than employee welfare associations, the associations were controlling nearly all the vending machines at each postal facility that were not part of a vending stand.

REGULATIONS AND POLICIES

Postal Service regulations specify that blind persons are to be given preference in installing and operating vending stands on Postal Service property.

Local and regional Postal Service officials must approve a permit to operate a blind-vendor stand. Appeals by State

agencies, when permits are not approved or when there is disagreement over permit terms, are directed to other Postal Service officials for a final decision.

A provision of the Postal Service regulations describes how income from vending machines, which compete with blind-vendor stands, may be assigned to the blind vendor. The regulations provide that:

"Profits from all vending machines presently operated by a licensed blind operator of a lobby stand, either in conjunction with his stand or in other areas of the same building under control of the Post Office Department,^[1] shall be assigned to the blind operator. When machines are being operated by an employees' committee in proximity to a stand or machines operated by a blind person and are in competition therewith, and a blind operator is not receiving an adequate income, consideration shall be given to assigning him all or part of the profits from other vending machines in the same building, regardless of location. (Adequate income is construed as being the equivalent of the average income of the average employee at the installation.) Reassignment of profits shall be considered only upon request from a State licensing agency to a postmaster or other postal official in charge of an installation. Assignment of profits to the blind operator from other vending machines shall be determined by the postal official in charge and the State licensing agency on the basis of the following:

- a. Proximity to and competition with the vending stand;
- b. Income which accrues to the operator from the stand operation; and
- c. Profits from vending machines not operated in connection with the stand." (Underscoring supplied.)

¹ These regulations were written before the Post Office Department was reorganized into the U.S. Postal Service. They have been adopted in the Postal Service Manual.

Postal Service officials gave us various interpretations of some of the provisions in the regulations. Some officials said that blind-vendor stands could be approved only for public areas of the post offices because of the potential danger to blind persons in work areas and employee resistance to any reduction in their associations' vending income. One regional Postal Service official, who supported this interpretation, acknowledged several blind vendors operating stands in post office work areas in his region, but said that this had occurred before the Postal Service was created.

Assigning vending machine income to blind vendors is not done consistently because of varying interpretations of the regulations. The methods of assigning vending machine income to blind vendors varied. Methods used included (1) a fixed monthly or annual payment, (2) all receipts from certain vending machines, (3) a fixed percentage of all vending machine receipts, and (4) an income supplement sufficient to raise blind vendors' incomes to the equivalent average income of the employees at the installation. Inconsistency was demonstrated in the Central Postal Region where operators of 38 blind-vendor stands were experiencing the following:

No income assigned to blind	21
Income assigned to blind:	
Payment by vending company	7
Payment by employee welfare fund:	
Specified percentage of gross receipts	4
Equivalent to average income of postal employees	3
Fixed amount	<u>3</u>
Total	<u>38</u>

In some cases blind vendors who had low net incomes were not assigned income or were assigned a nominal amount, whereas some vendors earning over \$10,000 were assigned income. In one region for example, one blind vendor with a net income of \$1,200 was assigned only \$45 from vending machine income. On the other hand, a blind vendor with a net income of \$11,200 from his own operation also received assigned vending machine income of \$10,100 making his total income \$21,300.

FINANCIAL RESULTS

Employee welfare associations had annual gross receipts of \$2.8 million from vending operations at locations which responded to our questionnaires. Because our questionnaires to Postal Service officials did not request income data for blind vendors and because some commercial vending companies would not furnish us income data, we were not able to compute total gross receipts or net income earned from vending operations.

Non-blind-vendor income and its use

Of the \$2.8 million in gross receipts (including commissions on vending machines sales by commercial enterprises), employee welfare associations earned a net income of about \$1.6 million.¹ (See app. VII.) We asked, in our questionnaire, that each respondent indicate whether it had earned net income of \$3,600 or more. Of the 288 associations responding, 68 reported net incomes of \$3,600 or more, including 37 locations having no blind-vendor operations. Thirty-one associations had net incomes of over \$10,000 and two associations reported net incomes exceeding \$100,000 from vending operations.

Two important factors must be considered in discussing the gross and net incomes from vending operations controlled by employee associations. First, in the locations where commercial vending companies were servicing vending machines under a contract with the employee associations, we were able to obtain data on commissions paid to the associations but not on total sales. Therefore, the total gross receipts amount of \$2.8 million does not represent total sales but commissions received from vending companies plus gross sales from vending operations controlled by employee associations. Actual total sales, therefore, would exceed the total gross receipts of \$2.8 million reported.

¹ We tested the financial data on three employee association funds and found their reported amounts to be substantially accurate.

Second, many employee associations control vending operations at more than one location. So while an association may report substantial total net income, the net income from each location may not be substantial. Information received from employee associations was generally for total operations, therefore, we were unable to determine results of vending operations at each location, which would be needed to assess the profit potential of each operation controlled by employee associations.

The net income of \$1.6 million earned by postal employee associations was used for various purposes. The following table illustrates the major uses of funds during fiscal year 1972.

<u>Use of funds</u>	New York <u>Metro Region</u>	<u>Central Region</u>	<u>Western Region</u>	<u>Total</u>
Assigned to blind vendors	\$ 43,800	\$ 37,455	\$ 5,546	\$ 86,801
Recreation and trophy costs	193,301	182,326	271,277	646,904
Retirement or separation parties and gifts	50,620	81,818	74,060	206,498
Radio and public address system costs	32,520	27,444	12,725	72,689
Birth, wedding, and death remembrances	21,050	33,187	13,673	67,910
Other (note a)	<u>93,391</u>	<u>351,044</u>	<u>153,537</u>	<u>597,972</u>
	<u>\$434,682</u>	<u>\$713,274</u>	<u>\$530,818</u>	<u>\$1,678,774</u>

^aIncludes expenditures for miscellaneous items, such as gift certificates, coffee, turkeys, and scholarships.

Many employee associations spent more money than they earned during fiscal year 1972. This was made possible by using money available from previous years' earnings.

Blind-vendor income

We did not obtain income data for all of the 68 blind-vendor operations at the postal facilities sampled because

we did not visit each operation, and our questionnaires to Postal Service officials requested data only on vending machine income assigned to blind vendors. The limited financial data obtained gave us some indication as to how some blind vendors were faring economically.

In one region seven blind vendors had total gross sales of \$823,000 and total net income of \$44,700, including assigned income. Four vendors had net incomes of less than \$3,000 while one vendor had a net income of over \$23,000. In another region, two blind vendors had earned less than \$3,000--one had assigned income, the other did not--and a third blind vendor had earned \$11,200 excluding assigned income. While 6 of the 10 vendors in these 2 regions had low net incomes, we cannot determine whether this data is representative of all of the 237 blind vendors who operated stands at postal facilities in fiscal year 1972.

As discussed previously, income was assigned to 38 of the 68 blind vendors operating in the facilities we reviewed. Responses to our questionnaires from postal facilities where blind vendors were operating stands showed that a total income of \$105,000 had been assigned to 33 of the 38 blind vendors. The amount of income assigned ranged from \$180 to \$14,000 annually. As mentioned previously the amount of income assigned to a blind vendor is not always determined by the net income which he earns from his own operations.

INTERNAL AUDIT

The Internal Audit Division of the Postal Service issued a report in June 1971 concerning welfare committee and cafeteria operations at various post offices. Although the report was primarily concerned with weaknesses in fund control, it also discussed weaknesses in administering blind-vendor operations and recommended changes to Postal Service policies which would benefit blind vendors. However, proposed revisions to these policies, which are under the Postal Service's consideration, do not include those recommended by the Internal Audit Division.

The report concluded that there is no uniform system for sharing welfare fund revenues with blind vendors. It stated that, at some locations blind vendors received no revenues from the welfare funds, while at other locations

they received arbitrary allocations of revenues. Also, there had been virtually no review or evaluation of blind operators' incomes to determine the adequacy of allocations. The two major factors reported as contributing to the breakdown in administering the blind operations were

- lack of local management attention to insure that policy and regulations are complied with and
- State agencies' reluctance to confer with postmasters or provide them with information on blind vendors' earnings.

The report concluded that one result of these deficiencies was that two blind operators from the Western Postal Region have incomes that are substantially higher than postal employees' earnings at the same locations, while at other locations, blind operators have insufficient incomes. The report recommended that:

- The Regional Postmasters General instruct those postmasters with blind vendors to annually confer with State agencies in setting incomes for the blind; any problem areas should be resolved by the regions.
- The Personnel Department consider revising the current procedures for planning blind-vendor stands in new facilities; the Postal Service should take the initiative to advise State agencies of any location appropriate for a blind-vendor stand.

A Postal Service official informed us that final action had not been taken on these recommendations. The Postal Service is currently preparing instructions for food-service operations and employee social and recreation committees. However, procedures concerning blind-vendor stands have not been significantly modified. The Postal Service official, knowledgeable of pending regulations, told us that blind-vendor stands will be confined to public areas and restricted from work areas in the future. In addition, the average postal salary, with which vendors' incomes will be compared, will still not be defined by Postal Service regulations. Therefore, any supplemental payments to blind operators will be negotiated between postmasters and State agencies. Further, there will be no provision for the Postal Service to take the initiative to contact State agencies.

POTENTIAL FOR INCREASING
BLIND-VENDOR OPERATIONS

Expanding the blind-vendor program in postal facilities will depend to a large degree on Postal Service officials' attitudes on

- allowing additional vending operations for the blind to be established on postal property and
- revising Postal Service regulations to clarify how the assignment of income to blind vendors should be determined.

Also, State agency officials must be more active in dealing with Postal Service officials on these matters. State officials cited a low success factor as the primary reason for their limited effort in attempting to establish additional blind-vendor operations at postal facilities.

CHAPTER 5

VENDING OPERATIONS IN OTHERFEDERALLY CONTROLLED BUILDINGS

Blind-vendor operations are more prevalent in other federally controlled buildings than at Postal Service or DOD installations but there are activities which compete with the blind in the vending stand program. In some cases, the same organization operating a cafeteria is operating a vending stand or is receiving income from vending machines as an incentive to maintain good cafeteria service. Another problem which came to our attention was that in some cases minority business enterprises have been competing with blind-vendor operations or have been placed where blind-vendor operations could have been established.

We attempted to locate and review all vending operations in 38 of more than 2,600 buildings owned or totally leased by GSA, the District government, or such agencies as the National Institutes of Health. The 38 buildings are in 6 cities located across the country and in the Washington metropolitan area. The following table summarized the operations reviewed.

	<u>Number of buildings</u>	<u>Controlled by blind persons</u>		<u>Controlled by others</u>	
		<u>Stands</u>	<u>Machines</u>	<u>Stands</u>	<u>Machines</u>
GSA:					
Owned	15	23	227	15	145
Leased	4	3	30	-	98
NIH:					
Owned	6	5	-	-	104
District government:					
Owned	5	4	22	3	37
Leased	<u>8</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>9</u>
	<u>38</u>	<u>35</u>	<u>279</u>	<u>18</u>	<u>393</u>

Additional details on each building are in appendix VIII.

FINANCIAL RESULTS

During fiscal year 1972, the gross income from all vending operations located in 35 of the 38 buildings included in our review totaled about \$4.2 million. Of this amount, blind vendors grossed about \$2.3 million and employee associations and commercial vending concerns together grossed \$1.9 million.

The total net income from these vending operations was \$589,500, of which 44 blind vendors earned \$460,400 from operations in 22 buildings and 5 employee associations and 3 commercial vending concerns earned \$129,100 from operations in 29 buildings.

Blind-vendor income

The 44 blind vendors who shared the total net profit of \$460,400 had individual annual incomes ranging from \$1,776 to \$30,000. Fifteen vendors earned less than \$7,000, four of which earned less than \$3,000. None of the blind vendors who operated 19 stands in proximity to vending machines operated by others were receiving a share of the income from the machines. Instead, employee associations or commercial vending concerns received the income despite the provision of the Randolph-Sheppard Act.

Assignment of income would be desirable in some cases. For example in one case we observed, a blind vendor competing with a nearby snack bar operated by a commercial concern was not assigned any income from the vending machines associated with the snack bar, which grossed \$73,400 in 1972, even though his annual net income was about \$2,000 and had to be supplemented by the State agency.

Non-blind-vendor income

Of the \$129,100 net earnings which employee associations and commercial vending concerns had, five employee associations earned \$15,100. Only one association operated vending stands.

During fiscal year 1972 a net loss of \$19,500 was recorded from the operation of six vending stands, despite sales of about \$1.2 million. Net income from vending machines,

however, was about \$34,700, of which \$28,000 was earned from two locations having net earnings exceeding \$11,600.

Three commercial concerns had net earnings of \$114,000. One concern netted over \$74,000 from vending stands located in seven buildings; the other two concerns did not operate vending stands. The \$40,000 earned from vending machines went primarily to one concern which earned \$31,300 from machines in seven locations. The remaining concerns earned \$6,100 and \$2,600, respectively.

Use of income by nonblind vendors

The net earnings retained by employee associations are used to support a variety of activities to benefit their members and other persons needing assistance. For example, some associations use their funds for emergency, interest-free loans to their members; annual picnics or Christmas parties; and athletic activities. Two employee associations with vending operations in hospitals use a portion of their earnings to assist patients and visiting families.

ACTIVITIES COMPETING WITH BLIND-VENDOR OPERATIONS

Although the blind-vendor program operates under generally favorable circumstances in Federal complexes, some activities compete with the blind for vending operations at federally controlled locations.

Cafeteria operators favored

GSA often authorizes operation of a vending stand or assigns cafeteria operators the right to vending machine commissions on the premise that it protects the interests of the operation and the Government employees by keeping food quality high and the prices low. GSA has found that cafeterias in Federal buildings frequently operate at a loss or a low profit margin. Vending commissions, in GSA's opinion, provide the cafeteria operators with the incentive and supplementary income to continue operating in the desired fashion.

If a cafeteria and a blind-vendor stand are in the same building, GSA attempts to allocate vending operations on a basis that will serve the best interests of each. Therefore, a cafeteria may be assigned the right to the income of the major portion of vending machines. In addition, the types of items blind vendors sell might be restricted to limit competition with the cafeteria. The Federal property management regulations promulgated by GSA provide that blind persons and employee associations can share vending machine income but do not provide for dividing this income between the blind and a commercial food-service operator.

In November 1972, GSA proposed new regulations which would have limited the types of items blind vendors could sell. The change was proposed to ease cafeteria operators' financial problems and GSA's problems with cafeteria operators in Federal buildings and to obtain bids for cafeteria operations. In December 1972, however, the proposal was withdrawn because of congressional and public criticism and because the regulations did not insure continued operation of existing blind-vendor stands.

In six instances cafeteria operators were authorized to operate a vending stand or were assigned vending machine income, while blind vendors in the same buildings were not assigned such income.

Minority business enterprise

Arrangements for developing and coordinating a national program for minority business enterprises were prescribed in Executive Order No. 11625, dated October 13, 1971. Under this Executive Order, Federal departments and agencies are to continue all current efforts to foster and promote minority business enterprises, cooperate with the Secretary of Commerce in increasing the total Federal effort, and report annually on their activities in this program.

Federal departments or agencies award contracts to minority enterprises for conducting business activities on Federal property. In some cases, contracts call for operating vending facilities. Although we did not examine any vending facilities being operated by minority enterprises in the 38 buildings included in our review, we realized

that such operations sometimes compete with the blind-vendor program.

For instance, the Atomic Energy Commission controls Government-owned, contractor-operated plants. At one such plant, a minority business was awarded a \$4 million contract through the Small Business Administration's section 8a program¹ to supply and maintain vending concessions.

Commission regulations clearly give preference to blind persons in operating vending stands and further state that no arrangement for operating a vending stand can be made without first consulting the State agency for the blind. In the case previously cited, Commission officials met with State agency officials and explained why they did not believe it was feasible for a blind person to operate vending concessions. Because State agency officials did not make further inquiry, Commission officials concluded that they had complied with the regulation and proceeded to arrange for a minority business to be awarded a contract to operate vending concessions. At the time the contract was awarded, State agency officials contacted us to voice their concern that the minority business program was competing with the blind-vendor program.

In one Federal building in Philadelphia, a minority business was installed on the same floor with a previously established blind-vendor operation. The two operations were offering some of the same items for sale, such as pipe tobacco, candies, and snacks. In this case, neither the blind vendor nor the State agency complained about installing a minority business until it was authorized to sell items which the blind vendor had not been permitted to sell. Subsequently the minority business was required to cease selling these items.

¹Under this program, which was authorized by the Small Business Act (15 U.S.C. 631), the Small Business Administration is authorized to enter into procurement contracts with other Federal agencies and to subcontract the performance of these contracts.

In another case, a minority business was to begin operating in a building on a different floor from a blind-vendor operation. Because the business was to sell items also sold by the blind vendor, the State agency protested to GSA, which controls the building. As of June 30, 1973, the minority enterprise had not been opened for business.

Although the frequency of minority businesses being placed where blind vendors could be established or in competition with blind vendors is apparently low, it could increase as a result of increased emphasis on the minority enterprise program.

Other deterrents to the blind-vendor program

Several other factors have deterred the blind-vendor program. Individually, these factors do not pose a major problem, but collectively they could.

1. GSA has rejected plans to expand vending operations in building lobbies because of the problems which arise in maintaining an attractive appearance in the lobbies and because it is GSA's policy that the blind-vendor stands are intended to serve building tenants rather than the public.
2. GSA's current guidelines state that a building must have a population from 150 to 1,200 to support one vending stand. Building populations ranging from 4,000 to 6,000 could support two vending stands. However, we observed several locations where two or more vending stands were operating successfully even though the building had a population of less than 4,000. GSA officials admit that they should consider more than just building population in establishing a vending site. Yet, this criterion was used to refuse additional vending operations at locations which State agencies believed would support these operations.
3. Some employee associations operate "general-merchandise" stores which offer some items for sale that are also sold by blind vendors located in the same building.

POTENTIAL FOR INCREASING
BLIND-VENDOR OPERATIONS

The blind-vendor program has been relatively successful in Federal complexes. The potential for program expansion is limited but should be pursued. Equally important, however, is the need to maintain the degree of success already achieved.

State agency officials advised us that the number of stands could be increased in many locations or that existing stands could be expanded to sell more items. Program expansion will require not only State agency efforts but also the cooperation of Federal property owners or lessees, such as GSA and those Federal agencies engaged in promoting and administering the minority enterprise program. Further, strong continuing efforts will be needed from the State agencies if the current success of the program is to be maintained.

CHAPTER 6MATTERS FOR CONSIDERATIONBY THE SUBCOMMITTEE

Before the blind-vendor program can be expanded, priorities among competing interests--the blind, minority enterprises, employee associations, and cafeteria operators--must be established.

In deliberating on whatever legislative or administrative actions need to be taken the Subcommittee may wish to consider:

1. The circumstances under which blind persons should be given preference in establishing and operating vending facilities.
2. That agencies do not always assign vending machine income as provided by the Randolph-Sheppard Act and use different methods when making assignments.
3. The extent States use set-aside funds, the differences in methods of computing blind vendors' contributions, and the activities for which set-aside funds can be used.
4. That Randolph Sheppard Act does not require the program to be evaluated periodically or for reports to be submitted to the Congress by HEW or any other Federal agencies that control, operate, or maintain Federal property and approve installation of blind-vendor operations.
5. A requirement that HEW, under the authority vested in it by Executive Order No. 11609, review the rules and regulations of the various Federal agencies to insure that agencies adequately provide the preference that blind persons are entitled to in operating vending stands on Federal property.
6. The issue of HEW and the States having no recourse from Federal agency decisions regarding blind-vendor facilities on property that they control,

which was brought out in hearings to amend the Randolph-Sheppard Act held before the Subcommittee on Handicapped Workers, Senate Committee on Labor and Public Welfare, in October and December 1971. The proposed amendments were not enacted into law, and as a result HEW and State agencies are still without recourse.

CHAPTER 7SCOPE OF REVIEW

Our review was directed toward obtaining the necessary information concerning vending operations on federally controlled property, as agreed upon with the Subcommittee. Reliable statistics were not available on the number of vending operations on federally controlled property, their operators, locations, the dollar volume of their business, or how net proceeds were used. Because of the large number of operations, it was necessary to select a sample to be reviewed.

With the agreement of the Subcommittee, we included in our sample the following locations, which represent different parts of the country and account for a significant number of vending operations:

- Seven Federal agency headquarters in the Washington, D.C., area--HEW, U.S. Postal Service, DOD, Department of Agriculture, Department of State, Veterans Administration, Internal Revenue Service--and 13 District of Columbia Government buildings.
- A total of 291 major postal facilities in the New York, Central, and Western Regions of the Postal Service.
- Six military installations--Norfolk Naval Shipyard, Portsmouth, Virginia; Charleston Naval Base, South Carolina; Lackland Air Force Base, Texas; Fort Riley, Kansas; Camp Pendleton, California; and Fort Belvoir, Virginia.
- Eight federally controlled buildings in Boston; Chicago; Fresno, California; Kansas City, Missouri; St. Louis; and San Francisco.
- State licensing agencies for California, the District of Columbia, Illinois, Maryland, Massachusetts, Missouri, and Texas.

The licensing agencies were selected from States that were dispersed geographically and differed widely in population.

We observed vending operations at Federal locations; we used questionnaires to obtain data from all postal facilities selected and visited nine. We examined all pertinent records and documents made available to us by Federal, State, and commercial vending company officials. In some cases commercial vending companies could not, or would not, provide us with financial data we requested. Also, our questionnaires to Postal Service officials did not request financial data on blind vendors' operations. We discussed program operations with officials at HEW, DOD, GSA, the Postal Service, and other Federal agencies and also with officials from State licensing agencies and commercial vending companies.

NATIONAL SUMMARY OF STATISTICAL DATA
FROM STATES' ANNUAL BLIND-VENDOR REPORTS
FOR FISCAL YEARS
1971 AND 1972

	Fiscal year <u>1971</u>	Fiscal year <u>1972</u>	Percentage increase over previous <u>year</u>
Total number of stands	3,142	3,229	2.8
Federal locations	881	878	0.3
Non-Federal locations	2,261	2,351	4.0
Public	1,391	1,436	3.2
Private	870	915	5.2
Total gross sales	\$101,304,773	\$109,847,028	8.4
Federal locations	30,436,007	32,213,449	5.8
Non-Federal locations	70,868,766	77,633,579	9.5
Total number of operators	3,452	3,583	3.8
Federal locations	986	1,005	1.9
Non-Federal locations	2,466	2,578	4.5
Net proceeds to operators	\$ 20,611,157	\$ 22,768,349	10.5
Federal locations	6,206,206	6,610,786	6.5
Non-Federal locations	14,404,951	16,157,563	12.2
Operators' annual average earnings	\$ 6,516	\$ 6,996	7.4

APPENDIX II

ACCUMULATIVE BLIND-VENDOR
PROGRAM STATISTICS (1953-1972)

<u>Fiscal year</u>	<u>Average net earnings of operators</u>	<u>Number of operators</u>	<u>Number of vending stands</u>	<u>Gross sales</u> (millions)
1953	\$2,209	1,581	1,543	\$ 20.6
1954	2,193	1,659	1,599	22.0
1955	2,345	1,721	1,664	23.5
1956	2,532	1,804	1,727	25.8
1957	2,654	1,924	1,830	28.9
1958	2,833	1,998	1,901	31.7
1959	3,354	2,111	1,982	34.8
1960	3,688	2,216	2,078	38.2
1961	3,900	2,332	2,174	42.0
1962	4,140	2,425	2,257	45.7
1963	4,392	2,542	2,365	49.5
1964	4,452	2,641	2,442	53.9
1965	4,716	2,806	2,574	59.4
1966	4,932	2,915	2,661	65.3
1967	5,244	3,117	2,807	71.5
1968	5,580	3,259	2,918	79.0
1969	5,868	3,341	3,002	86.4
1970	6,300	3,352	3,061	93.9
1971	6,516	3,452	3,142	101.3
1972	6,996	3,583	3,229	109.8

BLIND-VENDOR STANDS ON FEDERAL PROPERTY
BY AGENCY GRANTING PERMIT
FOR FISCAL YEAR 1972

<u>Federal agency</u>	<u>Stands at beginning of year</u>	<u>New stands established during year</u>	<u>Stands closed during year</u>	<u>Stands at end of year</u>
Agriculture, Department of	10	0	0	10
Air Force, Department of the	9	0	0	9
Army, Department of the	15	2	0	17
Atomic Energy Commission	15	1	1	15
Commerce, Department of	2	0	0	2
Defense, Department of	3	1	0	4
General Services Administration	456	15	15	456
Health, Education, & Welfare, Department of	44	2	2	44
Interior, Department of the	8	1	0	9
Navy, Department of the	14	2	0	16
Tennessee Valley Authority	9	0	1	8
Treasury, Department of the	7	2	0	9
U.S. Postal Service	237	7	16	228
Other	<u>52</u>	<u>10</u>	<u>11</u>	<u>51</u>
Total	<u>881</u>	<u>43</u>	<u>46</u>	<u>878</u>

APPENDIX IV

SCHEDULE OF STATE STAFFING DATA

<u>State</u>	<u>State licensing agency</u>	<u>Nominee agency</u>	<u>Number of State licensing agency staff concerned with blind-vendor program</u>	<u>Total number of nominee agency staff</u>
California	State Department of Rehabilitation- Business Enterprise Program		21-Professional 10-Clerical	-
District of Columbia	D.C. Vocational Rehabilitation Administration	District Enterprises for the Blind	3-Professional 1-Clerical	14
Illinois	State Division of Vocational Rehabilitation	Visually Handicapped Managers of Illinois	4-Professional 2-Clerical	16
Maryland	State Division of Vocational Rehabilitation	Maryland Workshop for the Blind	(a)	9
Massachusetts	Massachusetts Commission for the Blind		5-Professional 1-Clerical	-
Missouri	Bureau for the Blind-Business Enterprises and Facilities for the Blind		5-Professional 2-Clerical	-
Texas	State Commission for the Blind		12-Professional 1-Clerical	-
Total			50-Professional 17-Clerical	39

^aThe State Division of Vocational Rehabilitation does not have any full-time employees for administering the vending stand program. However, the Division's Director of Services for the Blind, as one of his functions, coordinates the management and operation of all phases of the program.

CHEDULE OF PROGRAM FUNDING
FOR FISCAL YEAR 1972

State licensing or nominee agency	Total funding	Set-aside funds	Source of funding					Miscel- laneous (note b)
			State vocational rehabilita- tion funds	Federal funds	Unassigned vending machine income (note a)	State funds for salaries	State general revenue funds	
California	1,164,946	526,806	-	524,241	-	-	-	115,899
District of Columbia	411,085	352,381	-	-	9,592	49,112	-	-
Illinois	671,034	134,592	-	462,862	-	-	73,580	-
Maryland	332,043	232,088	51,000	-	8,955	-	40,000	-
Massachusetts	(c)	none	-	-	-	62,494	-	-
Missouri	235,502	67,779	18,654	74,615	-	74,454	-	-
Texas	395,926	124,664	-	271,262	-	-	-	-

^aUnassigned vending income is vending machine profits that have not been assigned to a specific operator or manager. Profits are sent to the licensing agency in the form of a donation and placed into a reserve account or into the set-aside account and are used to operate and administer the program.

^bThis category may include such items as repayments from loans to operators and adjustments.

^cMassachusetts' financial records are not maintained so that all of the funds available for administering the vending stand program can be identified.

FINANCIAL RESULTS OF NONAPPROPRIATED FUND ORGANIZATIONS^a

VENDING OPERATIONS AT SIX MILITARY INSTALLATIONS AND

AT THE PENTAGON (note a)

	Vending machines							Total
	Norfolk	Charleston	Belvoir	Pendleton	Riley	Lackland	Pentagon	
Gross Receipts:								
Sales (note b)	\$ 92,606	\$273,268	\$352,438	\$1,882,881	-	\$ 907,535	\$384,080	\$3,892,808
Commissions	<u>158,135</u>	<u>6,608</u>	<u>94,451</u>	<u>-</u>	<u>\$214,753</u>	<u>368,871</u>	<u>48,377</u>	<u>891,195</u>
Total receipts	<u>250,741</u>	<u>279,876</u>	<u>446,889</u>	<u>1,882,881</u>	<u>214,753</u>	<u>1,276,406</u>	<u>432,457</u>	<u>4,784,003</u>
Operating Costs:								
Cost of goods sold	54,369	221,749	272,620	^b 710,418	-	648,566	192,040	2,099,762
Direct expenses	24,715	53,613	66,080	^b 491,759	^b 21,475	138,209	43,246	839,097
Other expenses (income)	<u>(192)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(192)</u>
Total expenses	<u>78,892</u>	<u>275,362</u>	<u>338,700</u>	<u>1,202,177</u>	<u>21,475</u>	<u>786,775</u>	<u>235,286</u>	<u>2,938,667</u>
Net receipts	<u>\$171,849</u>	<u>\$ 4,514</u>	<u>\$108,189</u>	<u>\$ 680,704</u>	<u>\$193,278</u>	<u>\$ 489,631</u>	<u>\$197,171</u>	<u>\$1,845,336</u>

^a The financial information is for the most recent fiscal year for which records were available and in some cases is based on estimates.

^b These figures do not include sales of commercial vending concerns which totaled over \$3.2 million from these sales; commissions of \$900,000 were paid to nonappropriated fund organizations.

APPENDIX VI

Norfolk	Charleston	Vending stands					Total	Grand Total
		Belvoir	Pendleton	Riley	Lackland	Pentagon		
\$442,194		\$485,130	\$1,387,995		\$1,887,224	\$1,290,913	\$5,493,456	\$ 9,386,264
-		-	-		8,837	-	8,837	900,032
<u>442,194</u>		<u>485,130</u>	<u>1,387,995</u>		<u>1,896,061</u>	<u>1,290,913</u>	<u>5,502,293</u>	<u>10,286,296</u>
304,323		233,946	b898,747		870,064	413,092	2,720,172	4,819,934
133,183		203,145	b378,371		744,546	684,184	2,143,429	2,982,526
<u>1,930</u>		<u>-</u>	<u>-</u>		<u>-</u>	<u>-</u>	<u>1,930</u>	<u>1,738</u>
<u>439,436</u>		<u>437,091</u>	<u>1,277,118</u>		<u>1,614,610</u>	<u>1,097,276</u>	<u>4,865,531</u>	<u>7,804,198</u>
<u>\$ 2,758</u>		<u>\$ 48,039</u>	<u>\$ 110,877</u>		<u>\$ 281,451</u>	<u>\$ 193,637</u>	<u>\$ 636,762</u>	<u>\$ 2,482,098</u>

APPENDIX VII

RESULTS OF EMPLOYEE ASSOCIATION
 VENDING OPERATIONS AT SELECTED POSTAL FACILITIES
 FOR THE MOST CURRENT YEAR REPORTED (note a)

	Vending machines				Vending stand	Grand
	New York region	Central region	Western region	Total	Central region (note b)	Total
GROSS RECEIPTS	\$430,294	\$1,376,477	\$593,292	\$2,400,063	\$416,970	\$2,817,033
TOTAL EXPENSES	<u>150,741</u>	<u>444,784</u>	<u>195,762</u>	<u>791,287</u>	<u>368,824</u>	<u>1,160,111</u>
Net receipts from vending operations	279,553	931,693	397,530	1,608,776	48,146	1,656,922
OTHER INCOME (expenses) (note c)	<u>80,152</u>	<u>-186,051</u>	<u>73,143</u>	<u>-32,756</u>	-	<u>-32,756</u>
Net receipts	<u>359,705</u>	<u>745,642</u>	<u>470,673</u>	<u>1,576,020</u>	<u>48,146</u>	<u>1,624,166</u>
DISTRIBUTION OF NET RECEIPTS:						
Employee benefits	390,882	675,819	525,272	1,591,973	-	1,591,973
Retained earnings	-74,977	32,368	-60,145	-102,754	48,146	-54,608
Contributions to blind (net)	<u>43,800</u>	<u>37,455</u>	<u>5,546</u>	<u>86,801</u>	-	<u>86,801</u>
Total	<u>\$359,705</u>	<u>\$ 745,642</u>	<u>\$470,673</u>	<u>\$1,576,020</u>	<u>\$ 48,146</u>	<u>\$1,624,166</u>

^a This schedule is based on data furnished to GAO without audit and in some cases includes estimates.

^b This stand was operated by the Chicago Post Office Cafeteria Committee which is separate from the employee welfare association. The Cafeteria Committee lost money during fiscal year 1972.

^c Included net receipts of \$12,400 from two employee-operated vending stands on which we did not obtain further financial information.

APPENDIX VIII

FEDERAL AND DISTRICT OF COLUMBIA GOVERNMENT
BUILDINGS SELECTED FOR RENT

Location	Number of employees	Square footage	Vending operations			
			Controlled by the blind vending stands	Controlled by the blind vending machines	Controlled by others vending stands	Controlled by others vending machines
GSA-OWNED BUILDINGS:						
Washington, D.C.:						
State Department headquarters	6,809	1,014,565	2	28	3	61
Internal Revenue Service headquarters	4,000	779,715	2	-	1	23
HEW Complex in Southwest D.C.:						
Building number 6	2,227	401,000	1	11	1	12
Building number 8	1,125	344,615	-	-	1	7
North building	3,743	624,564	3	21	1	-
South building	1,574	318,465	2	9	-	-
Veterans Administration headquarters	2,666	332,360	1	3	1	5
Lafayette building	1,251	460,970	-	-	1	5
Department of Agriculture:						
North building	1,040	192,780	-	13	1	1
South building	7,100	1,267,325	1	6	5	25
Liberty Loan Building	600	98,630	1	10	-	-
Other cities:						
Kansas City, Mo.	4,756	795,432	1	72	-	-
601 E Street						
San Francisco	4,700	940,030	2	16	-	-
Federal building						
450 Golden Gate Avenue						
Chicago	3,488	773,860	2	34	-	6
Everett McKinley Dirksen						
Boston	3,860	618,889	5	4	-	-
J.F.K. building						
Total	46,939	9,563,200	23	227	15	145
GSA-LEASED BUILDINGS:						
HEW and Food and Drug Administration,						
Boston	105	29,849	-	-	-	5
210 North 12th Street, St. Louis	2,205	348,920	1	26	-	-
Internal Revenue Service Center						
Fresno, Calif.	2,700	422,837	1	4	-	79
300 South Wacker, Chicago	1,895	290,030	1	-	-	14
Total	6,905	1,091,636	3	30	-	98
NATIONAL INSTITUTES OF HEALTH-OWNED BUILDINGS:						
Bethesda, Maryland:						
Building:						
10	3,470	1,128,651	1	-	-	41
13	632	222,221	2	-	-	10
31	2,409	485,850	1	-	-	37
36	462	173,942	-	-	-	2
37	758	207,995	-	-	-	11
33	464	227,944	1	-	-	3
Total	8,195	2,446,603	5	-	-	104
DISTRICT OF COLUMBIA GOVERNMENT-OWNED BUILDINGS:						
District building	1,025	184,710	1	-	1	3
Municipal Center	2,478	446,054	1	9	1	6
451 Pennsylvania Avenue, NW.	181	97,868	-	1	1	9
499 Pennsylvania Avenue, NW.	494	89,006	1	2	-	1
D.C. General Hospital	2,200	1,000,000	1	10	-	12
Total	6,378	1,817,638	4	22	3	37
DISTRICT OF COLUMBIA GOVERNMENT-LEASED BUILDINGS:						
415 12th Street, NW.	1,204	216,701	-	a.	-	-
601 Indiana Avenue, NW.	495	89,000	-	a.	-	1
613 G - 614 H Streets, NW.	1,933	314,000	-	a.	-	-
1207 Taylor Street, NW.	129	14,500	-	a.	-	6
1321-1331 H Street, NW.	977	175,924	-	a.	-	a3
500 First Street, NW.	553	117,225	-	a.	-	a3
122 C Street, NW.	400	101,771	-	a.	-	-
801 North Capital Street, NE.	425	68,000	-	a.	-	-
Total	6,116	1,097,121	-	a.	-	15

²Financial data for these vending machines was not readily available. The proceeds accrue to a private concessionaire.

NOV 20 1973

STATE BOARD OF VOCATIONAL EDUCATION
DIVISION OF VOCATIONAL REHABILITATION

THOROLD S. FUNK, DIRECTOR

STATE CAPITOL BUILDING
CHARLESTON, WEST VIRGINIA 25305
(304) 348-2375

November 13, 1973

Honorable Jennings Randolph
United States Senate
Room 5121
New Senate Building
Washington, D.C. 20510

Dear Senator Randolph:

This is to acknowledge your correspondence, dated October 12, 1973, relative to the Comptroller General's report on "Review of Vending Operations on Federally Controlled Property."

I have reviewed this report with Mr. Joseph E. Lobuts, Chief, Services for the Blind and Visually Impaired, and Mr. James S. Burk, Supervisor, Business Enterprises for the Blind, West Virginia Division of Vocational Rehabilitation. We have the following observations and recommendations to make.

The Randolph-Sheppard Act, as amended, requires the Secretary of the Department of Health, Education, and Welfare to make surveys of vending stand opportunities for blind persons on Federal and other property. The Department of Health, Education, and Welfare has delegated this responsibility to state agencies and provided some financial assistance for this task. For all practical purposes, however, our agency must rely on its own initiative and resources to learn where potential programs could be established.

Our agency is receiving some assistance from the staff of General Services Administration in evaluating opportunities in newly constructed federal buildings and improvements to be made in old federal buildings. The criteria used by the states reviewed to establish a new program are also used by our agency. We do require a specific population criteria. There must be at least 250 employees in a building and a visiting population of 250 before we will consider installing a program.

This report lists six reasons (page 13) why a state will not approve a location of a program. We would agree with this since we use this same criteria.

In discussing supervisory visits to vending stands, it is to be noted that West Virginia has a minimum requirement of one supervisory visit per stand per month. However, most stands receive one visit per week. No formal records are being kept at this time of these supervisory visits. As of January 1, 1974, formal reports will be made and filed. There is no financial audit of each individual stand in our program. The total program receives an annual audit.

Honorable Jennings Randolph
Page 2
November 13, 1973

Referral and selection of prospective operators is handled basically the same in all Rehabilitation Agencies. West Virginia provides on-the-job training of actual work done in a stand program. Formal classroom work is provided at our Rehabilitation Center in those areas of training and adjustment where indicated prior to the on-the-job training.

Income-sharing between operators and vending machines located throughout a federal building (post office) is not being done in West Virginia. The postal employees' welfare and recreation groups utilize the income from the machines. Federal agency regulations and the Randolph-Sheppard Act are loosely interpreted in West Virginia. If the Randolph-Sheppard Act was adhered to in a strict sense, our vending stand operators in the post offices would be receiving an additional income.

West Virginia does utilize a set aside fund. These funds are used in accordance with the rules set forth in the Randolph-Sheppard Act.

The Department of Health, Education, and Welfare needs to emphasize the guidelines as set forth in the Randolph-Sheppard Act relative to set aside funds and see to it that state agencies abide by the Act.

In relation to vending operations at postal service facilities, we have the following observations to make.

The vending stands that are operated by our program are located in the lobbies of the post offices. The operator must rely on visitor trade for the stand income. As I have mentioned above, vending machines are located in the work areas and the operators do not receive even a portion of the income as specified by the Randolph-Sheppard Act. In these situations, strict enforcement of the Act would certainly be beneficial to our operators.

Assigning vending machine income to blind vendors is not done consistently in any state because of varying interpretations of the regulations. This also could be clarified by uniformity in the Postal Service Regulations.

We would agree with the report that to expand the blind-vendor program in postal facilities, the postal service officials attitudes must change. The change must be relative to revising postal service regulations, to clarify how the assignment of income to blind vendors should be determined.

Vending operations in other Federally controlled buildings are limited in West Virginia. Our State is operating snack bars, which prepare hot foods in three Federally operated buildings: (1) Internal Revenue Service, Martinsburg, West Virginia; (2) Bureau of Public Debt, Parkersburg, West Virginia; (3) Bureau of Mines, Morgantown, West Virginia.

Honorable Jennings Randolph

Page 3

November 13, 1973

We are not involved in any of the controversies as listed in the report. Our three operations are doing moderately well. However, adequate pricing of food is always a problem in these stands.

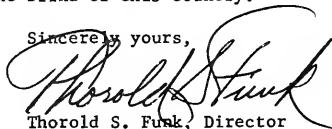
We would agree with the recommendation as listed at the end of Chapter Five. Blind-vendor programs in West Virginia have been successful in Federal complexes. However, program expansion will require not only state agency efforts but also the full cooperation of Federal property owners or lessees, such as the General Services Administration.

In closing I would like to state that our agency would agree that before the blind-vendor program can be expanded, priorities among competing interests such as the blind, minority enterprises, employee associations, and cafeteria operators must be established.

It is also important that the proposed amendments of the Randolph-Sheppard Act be enacted and put into law. Only at this time will the Department of Health, Education, and Welfare and state agencies have definite guidelines to establish, operate and expand the blind-vendor programs.

I hope this is the information you are seeking and that it will help you in your continued efforts to serve the blind of this country.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Thorold S. Funk". The signature is fluid and cursive, with the first name "Thorold" being more prominent and the last name "Funk" written in a more compact, stylized manner.

Thorold S. Funk, Director

STATE OF MICHIGAN



WILLIAM G. MILLIKEN, Governor

DEPARTMENT OF SOCIAL SERVICES

300 S. CAPITOL AVENUE, LANSING, MICHIGAN 48926

R. BERNARD HOUSTON, Director

OCT 29 1973

October 25, 1973

Honorable Jennings Randolph, Chairman
 Sub-Committee on the Handicapped
 Committee on Labor and Public Welfare
 U. S. Senate
 Washington, D. C. 20510

Dear Senator Randolph:

Staff from Michigan Services for the Blind have had the opportunity of reviewing the report to the Sub-Committee on the Handicapped which was prepared by the Controller-General of the United States. The basic comment from our staff was that the report was critical of the federal and state agencies.

In my opinion, the report was not critical of the federal and state agencies but, rather, clearly pointed to some basic facts concerning the vending stand program as it is administered through the state agencies and specifically pointed out the need for clarification in many areas. In my opinion, it is essential that we have federal regulations clarifying the preference to be given in GSA-operated buildings, the preference to be given through other governmental units and, particularly, the preference to be given and the assignment of revenue from the postal-operated vending machines.

We in Michigan have found it a bruising battle to continually negotiate with GSA and postal authorities to develop vending stand operations in these facilities. It is our opinion that preference is not given, but, rather, concessions are finally given if the state agency is persistent. In this procedure, we tend to develop vending operations which provide minimum income for the operators rather than maximum incomes. Consequently, our vending stand staff have attempted to look in other directions for new opportunities for people who are blind in Michigan. I believe to help diminish the problems which are created in this relationship, we need clear and precise guidelines spelling out the responsibilities of each of the agencies, as well as spelling out in detail specific services to be included in the vending stand program for the blind.

Please do not interpret my comments as suggesting that I believe the vending stand program for the blind should have all revenue derived from the food service programs in all federal buildings, nor do I reject this concept. I believe we need to examine the philosophy of the federal vending stand program for the blind, pay particular attention to the purpose of the program and then determine the direction and scope of the program. I believe that it will only be after we have this type of examination of the program that we will be able to develop specific regulations as to the type of services to be provided by the vending stand program for the blind. I would hope your Sub-Committee might have hearings



Hon. Jennings Randolph

-2-

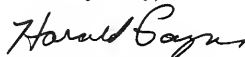
October 25, 1973

dealing with these issues and particularly invite staff from the state vending stand operations to be involved in the hearings.

We have come a long way since the beginning of the vending stand program in Michigan with our first post office stand in Port Huron, Michigan, selling mainly tobacco and sundry items and providing relief to the operator to where we now have stands in federal buildings providing a living wage to individuals, and operations in other facilities providing snack bar service to complete cafeterias. Our program has provided service to our customers in whatever facility we serve, as well as providing a living wage for the operator. I hope we can continue to move in this direction and that our philosophy can be to provide service and a living wage to people who are blind. We constantly hear from GSA personnel that their concern is to provide adequate food service for people in the facilities, and consequently, the vending stand program for the blind is often limited in its sale of items or completely eliminated from the facility. I suggest to you that, if this is the case, rather than eliminate the vending stand program for the blind from the facility, have the vending stand program for the blind provide all of the service. If the private concessionaire cannot make a profit under these conditions, I assure you that the vending stand program for the blind can and will if given the opportunity.

Thank you for the opportunity of reviewing the report, and I certainly hope you will call upon the vending stand program of Michigan and myself anytime in the future if we can be of service in helping in the further development of the vending stand program for the blind.

Yours very truly,



Harold Payne, Director
Services for the Blind

HP:cl

(Transcribed by a blind secretary.)

STATE OF MICHIGAN



WILLIAM G. MILLIKEN, Governor

DEPARTMENT OF SOCIAL SERVICES

300 S. CAPITOL AVENUE, LANSING, MICHIGAN 48926

R. BERNARD HOUSTON, Director

NOV 15 1973

November 13, 1973

Honorable Jennings Randolph, USS
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Senator Randolph:

Thank you for the copy of Senate Bill 2581. We appreciate the opportunity of reviewing the bill and passing on our comments. I have enclosed in this correspondence a copy of a memo from the head of our vending stand program in Michigan. I believe he has made some interesting observations, and I hope this will help you and the Committee.

I would appreciate receiving twenty additional copies of the bill to give to our advisory committee and organizations of the blind here in Michigan. I am in hopes that we can have discussions of the bill here in Michigan to gain support of all interested organizations. I would greatly appreciate response to this request at your very earliest opportunity. Our advisory committee will be meeting November 30, and if we can have the copies of the bill at that time, I will be able to discuss it with them.

I certainly hope that you and the Committee will be able to bring about legislation which will clarify and strengthen the role of the Services for the Blind in the food service programs on federal properties. I offer my support to you and the Committee, and if we can help in any way, please do not hesitate to call upon our program.

Yours very truly,

Harold Payne, Director
Division of Services for the Blind

HP:c1

Enclosure

(Transcribed by a blind secretary.)



STATE OF MICHIGAN
DEPARTMENT OF SOCIAL SERVICES

MEMORANDUM

To: Mr. Harold Payne, Director
Services for the Blind

From: Neil E. Crowl, Program Manager, Business Enterprises
Services for the Blind

Re: S2581, Randolph Sheppard Amendments

Date 11-7-73

On Page 2, Section 2, this action is appropriate to clearly define the original intent of the law, and to effectively enforce its application. The proposed section 3, Item A through G would provide for uniform guidelines and coordination of vending stand activities.

Page 5, Section 4, Item 2, I like this approach as it indicates assistance to the state agencies in informing them of possible locations and opportunities of which they may not have knowledge.

Page 6, Section 4, C, there is a real need for this terminology to prevent the state agency from being placed in the position of accepting a token dry stand location in a facility which does require services which include the more highly profitable item. The word stand is wholly inadequate for the present day program.

On Page 7, Line 17 (d), (1), this proposal is excellent in that it would compliment Section 4, Item 2, regarding possible locations and the provisions included would be a great saving in both time and money to the agency program. It would also have value in providing an operation with aesthetic qualities to a facility.

If I read Section 5, Line 19, on page 9 right, this means proposing that set aside fund can be utilized for retirement, insurance, and a paid leave program. Any fringe benefit would be a contributing factor to a service applicant's acceptance of the program.

The proposals on vending machine income would be of significant value in providing additional income to minimal stand operations, and the whole approach to obtaining this income for the vending program is appealing. However, on Page 13, Line 11, "Provided, however, that with respect to income which accrues under clause (1) of this subsection, the commissioner may prescribe regulations imposing a ceiling on income from vending machines for an individual blind licensee, ect." Here is an area which should be more clearly defined and not left to arbitration. While I agree with the proposed principles of arbitration in these amendments with reference to location and agency relations, you do not arbitrate money, you arbitrate conditions. In reference to this proposed statement on Page 13, Line 11, I recall Section 743.532, Employees Relations. Employee Services manual of the Post Office Department. Item 54, Assignment of Profits is a clearly defined statement on this matter and would resolve the need for arbitration if properly implemented in all location areas.

Section 8 on page 15 is a good proposal regarding uniform and effective training which would compliment those directives of Section 2 (3), A through G. In reference to Section 10 under definitions, I am reluctant to see the term cafeteria. We are well aware of the problems involved in getting individuals properly trained for this area. Also this type of working could create outside opposition to this whole package of proposed amendments at the seat of origin. In the federal complex in the District of Columbia area, there are numerous cafeteria operations. How many are operated by blind people? The opposition to this wording will come from those who do operate such services in these facilities.



GOVERNMENT OF GUAM
AGANA, GUAM

OCT 22 1973

October 19, 1973

The Honorable Jennings Randolph
Chairman, Subcommittee on the
Handicapped
United States Senate
Washington, D.C. 20510

Dear Senator:

Thank you for the copy of the "Report To The Subcommittee On The Handicapped" a review of "Vending Operations on Federally Controlled Property."

Mr. Tom G. Rathbone, former Director of Vocational Rehabilitation, Washington, D.C. is currently with me as our Rehabilitation and Facilities Specialist and he has often spoken about his very pleasant personal contacts with you when he was in Washington.

Based on his experiences with Federal Agencies while Director in D.C., Mr. Rathbone has carefully studied the Report and he feels that the facts are presented in a true light.

Many Federal Departments do not feel that the Randolph-Sheppard Act really applies to them, and since it lacks policing authority, they choose to ignore the intent of the Act, and to give more favorable action for Employee Welfare Associations, excluding the Blind.

Even with the large numbers of Federal properties in the District of Columbia, the Department of Vocational Rehabilitation in the District has not been able to get more than a token share of the possible opportunities available. The same situation prevails throughout the Nation.

Mr. Rathbone has spent fifty three years of his life working in behalf of the disabled, including the Blind and expresses the hope that the Randolph-Sheppard Act can be amended in such a way as to remove some of the barriers currently existing.

H.E.W. does not do what it could by providing program guidelines or standards to be followed by the State Agencies responsible for carrying out the intent of the Act. Maybe they can be spurred to more

effective action.

The Guam Division of Vocational Rehabilitation is the licensing agency for Guam and is active in securing stand opportunities for qualified Blind clients. We are fortunate in having a very small member of blind in our population but do have some in our case load.

Thank you again for your continuing interest and efforts in behalf of the Blind and for giving us the opportunity to review the Report submitted to your Committee.

Sincerely yours,

Rosa T. P. Salas
 ROSA T. P. SALAS (Mrs.)
 Chief, Division of
 Vocational Rehabilitation
 Dept of Education
 Government of Guam
 P. O. Box 3009
 Agaña, Guam 96910

WASHINGTON, D.C., November 2, 1973.

HON. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: The Washington Star-News carried an article the other day on the results of the General Accounting Office's investigation of the manner in which the Defense Department implements the blind vendor program. I don't know whether their report to you included a description of the existing situation in the building we occupy; but if it doesn't, I am sure you would be interested in hearing about it.

We are a part of the Defense Department and we occupy the Hoffman Buildings located at the far end of Alexandria. The only thing we are within walking distance of is a Holiday Inn. There is no public transportation during the day, so we are pretty much at the mercy of Mr. Hoffman from whom the buildings are leased. It is my understanding that the General Service Administration accepted the building for government occupancy and negotiated the terms of the lease. They must be very profitable for Mr. Hoffman because I have seen him drive not less than four different cadillacs since we moved in on 19 March.

There is a cocktail lounge in one building and a cafeteria in each of the two buildings; and I understand that they are owned by Mr. Hoffman. Since I don't need a drink to get me through the day, I cannot comment on the condition of the cocktail lounge, the price of the drinks, or their quality and taste. I can state that the cafeterias generally are dirty, the trays are sticky, the temperature of the rooms leaves much to be desired, the food is of mediocre quality, and it is sinfully overpriced. Because of our rather isolated location, we either brown-bag it or patronize Mr. Hoffman's cafeteria. We have no other choice.

There is a blind stand in Hoffman II. Under the terms of the lease negotiated by the General Services Administration, the blind man cannot sell milk, fruit juice, hotdogs, hamburgers, sandwiches, doughnuts, canned soup, pie, cake, or ice-cream. He is prohibited from doing so because it would take the business away from Mr. Hoffman's cafeterias and cut into his profits. So we are confronted with the distasteful situation wherein the General Services Administration, an agent of the government, assists an opportunist to rake in money at the expense of a blind man. How morally corrupt can you get.

Don't you agree with me, Senator Randolph, that the General Services Administration is long overdue for a close investigation of its leasing practices?

Sincerely,

NOVEMBER 7, 1973.

DEAR SENATOR RANDOLPH: After reading an article in the Pittsburgh Press, 10/31/73, "Blind Losing Vendor Rights", it made me stop and think of a few places I know of right here in Pittsburgh and one of them is a V.A. Hospital where a blind veteran could work. I am behind you and please tell me just what I can do.

The first thing I did was write to my Congressman Gaydos, 20th District of Pennsylvania. I do volunteer work at the V.A. Hospital and it makes me very sad when I see how soon these poor boys are soon forgotten. I am enclosing an editorial of a followup of the first article. Thought it was very good and to the point.

It might interest you to know that I did on a few occasions inquire where the profits went to from these vending machines and all I got was a vague answer. Please tell me where I can go from here to help these poor forgotten boys.

Very truly yours,

AGNES TAGMYER (Mrs.),
117 Fremont Street,
Pittsburgh, Pa.

[From the Pittsburgh Press, Nov. 3, 1973]

A SHABBY RIPOFF

The General Accounting Office (GAO) reports that a new granting blind persons preference in operating concession stands in U.S. government buildings is being subverted by a greedy cabal of employe welfare and recreation associations.

Principal offenders in this shabby ripoff are the Postal Service and the Defense Department. In both agencies hundreds of jobs that under the law should be filled by the blind have been pre-empted by vending machines operated for the benefit of employe associations.

And in both agencies, GAO pointedly notes, no one quite seems to know where the profits from this cozy arrangement go.

Sen. Jennings Randolph, D-W. Va., one of the authors of the original law granting preference to the blind concessionaires, is properly outraged at all this. He has introduced legislation strengthening the original act, and his efforts deserve success.

GAO estimates the 3,500 blind individuals now employed in running concession stands in federal buildings could be doubled in number within five years if the illegal obstacles in their paths were removed.

This should be done as quickly as possible. In the United States today there are as many as 40,000 blind persons capable of doing this sort of work, including some 500 blinded Vietnam veterans.

The federal government should be setting an example in using the skills of the sightless—not succumbing to pressure from money-grubbing associations of federal workers intent on grabbing the modest earnings of the blind.

PORT AUTHORITY OF ALLEGHENY COUNTY,
Pittsburgh, Pa., November 15, 1973.

HON. JENNINGS RANDOLPH,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR RANDOLPH: As a former West Virginian, I noticed with interest your recent comments charging the U.S. General Services Administration with a degree of hesitancy to carry out legislation promoting the use of the handicapped in government facilities.

I thought you might be interested in knowing that the Port Authority of Allegheny County, the second largest "mover" of people in the Commonwealth of Pennsylvania, has just completed a new administration building which was largely financed by an Urban Mass Transportation Administration grant.

For the first time, the Authority has an in-house cafeteria to provide food services for its employees and visiting public. The Port Authority retained an organization serving the handicapped, the Bureau of the Visually and Physically Handicapped. Our employees are delighted by the service rendered by this organization, and I am personally pleased that our action is in accord with your thoughts on this matter.

Sincerely,

RUSSELL W. CUNNINGHAM,
Director, Administration and Finance.

AUXILIARY TO KENTUCKY POSTAL WORKERS UNION, AFL-CIO,
Louisville, Ky., November 28, 1973.

Senator JENNINGS RANDOLPH,
*Senate Office Building,
Washington, D.C.*

HONORABLE SIR: I am writing in reference to bill S-2581 where all the income from vending machines at federal installations would go to the blind. I would like you to keep an open mind until taking the following under consideration:

Some years back we found it necessary to protect or should I say "over-protect" our blind and other handicapped—today thru progress and understanding, we are trying to make them feel like normal, everyday, selfsupporting, efficient human beings. Kentucky is not behind in its education of and research for these individuals, but can afford to be counted with the best. The blind work in private industry as well as governmental agencies—side by side with everyone else—and manage very well. They are no longer people to be pitied unless of course we are the ones to help handicap them by sending them back in time with their cups and pencils on street corners.

Number 2, and most important to us as part of the Postal Family, the income from these machines are sometimes the only morale builder we have left. I won't go into what the Corporation has taken away from us, but rather stress the particular need for the continuation of this income. From its existence contributions are made to the employee as well as his immediate family during illness or bereavement, a bond of sportsmanship derived from participation in the bowling league and golf tournaments, not to mention the togetherness brought about at the family affairs such as boat rides, dances and picnics.

Private industry gives bonus' or Xmas parties or such—the Post Office as such gives what??? Why take away our last shread of self respect and semi-independence for a people who are striving hard to reach and maintain the same goal?

Reconsideration in this matter would be greatly appreciated.

Thank you.

Sincerely,

(Mrs.) EMMA J. WIMBERLY,
1st Vice President, Auxiliary KPWU.

AMERICAN ASSOCIATION OF WORKERS FOR THE BLIND, INC.,
PENNSYLVANIA-DELAWARE CHAPTER,
Bridgeville, Pa., December 3, 1973.

Hon. Senator JENNINGS RANDOLPH,
Senator from West Virginia,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: The Pennsylvania-Delaware Chapter, American Association of Workers for the Blind would like to voice their objectives to the behavior of the General Services Administration (G.S.A.) in permitting vending stands to be operated in direct competition with the provisions of The Randolph-Sheppard Act from being established in certain Federal facilities. Instead, you find that the Federal Employees Association are receiving money from vending machines which are established in these facilities. We respectfully urge you to take any and every step possible to bring about an effective solution to this problem. We urge that the Congress enact effective amendments to The Randolph-Sheppard Program. These amendments will open employment opportunities for the thousands of blind persons who are not working at the present time because of the actions of the G.S.A., and the various Federal Employee Associations.

We wish to state our support to you and offer to you any assistance that we can to help you secure the necessary solutions.

With utmost respect for you, I am,

Sincerely,

LEROY J. BETTWY, *Secretary.*

NATIONAL AUTOMATIC MERCHANDISING ASSOCIATION,
Chicago, Ill., December 3, 1973.

Hon. Senator JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped of the U.S. Senate Committee on
Labor and Public Welfare, Room 4228, Old Senate Office Building, Wash-
ington, D.C.

DEAR SENATOR RANDOLPH: The vending and contract food service industry has a deep interest in the outcome of Senate Bill 2581 which amends the Randolph-Sheppard Act for the blind. Our industry is presently serving a wide variety of government installations throughout the country by providing vending and food service to employees of the Federal Government. These contracts are bid upon by a variety of our members and in most instances, commissions paid as part of these contracts are given to the Federal authority operating the facility.

In many cases, this income goes to blind persons licensed by a state agency as part of the overall programs to protect the vending stand preferences for the blind as outlined in the original Act. There are a number of sections in the proposed legislation which NAMA would like to comment upon as they affect the vending and food service management industry.

Under what would be new Section 5 of the Act (Section 7 of the Bill), an arbitration panel would be established to arbitrate a complaint by any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program. The panel would consist of one individual designated by the state licensing agency, one designated by the licensed blind operators, and a chairman to be designated by both parties. Such an arbitration panel ignores the legitimate interests of the employees being served on the Federal or state property. Should a dispute involve any question of prices, products, or service provided by a vending/food service management company, it would inject the panel into the contractual arrangement between the contracting agency and the vending/food service management company.

neither of which are members of the proposed arbitration panel. We think such a procedure would be manifestly unfair to the employees at the location to be serviced who have a legitimate interest in the prices, products, and service to be provided. The contracting agency representing these employees must be included in any decision regarding the service to be provided at such locations.

On a related point, it would appear that under the proposed amendments, the enlarging of the definition of vending stands to "vending facilities" and the designation of the income from the operation of these facilities exclusively to the blind creates a probability that when such contracts are bid, the negotiation will be between a blind agency and the vending company directly, thus circumventing the primary Federal authority charged with the duty of operating the facility. We would not like to see such government authority, either the GSA or the Post Office Department eliminated as the primary contractor for these services.

The operation of concessions on government property should be subject to bid and the appropriate government authority operating the facility should be the one to let the bid and make the award. We feel that this will make for better administration overall.

We are pleased to see that new Section 10(8) of the Act (Section 8 of the Bill) defines "vending machine income" to mean that portion of the gross receipts from the operation of a vending machine of Federal property that normally accrues as a commission. The remainder of that definition referring to "the person operating, servicing or maintaining a vending machine" appears to confuse two of the typical operating procedures presently used in the vending and food service industry. In many instances, the commission equated to "vending machine income" is paid by the person operating, servicing or maintaining a vending machine to the contracting location, rather than to such a person. We would suggest that the definition be amended to indicate that "vending machine income" means that portion of the gross receipts from the operation of a vending machine on Federal property that normally accrues as a commission to the location at which a vending machine is operated, serviced or maintained.

The National Automatic Merchandising Association would like to emphasize that it has no objection to the basic tenet of the Randolph-Sheppard Act and would not take a position as to who should receive the final income generated by the commission, if any, which we pay under the bid.

Our industry has cooperated with efforts made under the authority of the Randolph-Sheppard Act to train blind persons in the operation of the equipment used by the vending/food service management industry and would certainly continue this cooperative effort in the future.

Cordially,

JOHN J. ZEL.
Eastern Counsel.

[From Scripps-Howard Wire Service, Feb. 13, 1973]

MACHINE PAYOFFS OUST BLIND VENDERS

(By Richard Starnes)

WASHINGTON, FEB. 13—Hundreds of blind men and women who operate snack bar concessions in Government buildings are in danger of losing their livelihoods to a powerful tie-in of vending machine entrepreneurs with Federal Employee Associations that share in their profits.

The blind concessionaires enjoy special status in Federal buildings under a law dating back to the New Deal, and the Comptroller General has ruled that the competing vending machine-employee association dealings are illegal. Yet many Government agencies have tacitly sided with the vending machines against the blind snack bar operators.

Because there is no accountability for vending-machine profits, there is no firm figure on how much bureaucratic bowling leagues and other after-hours activities of Government workers have profited from the arrangement.

But spokesmen for the blind concessionaires estimate the gross take from the rival vending machines sprinkled throughout Government buildings from Key West to Guam at more than \$100 million a year.

Under a typical contract between machine operators and Government Employee Associations, the partnership splits an estimated 10 per cent profit. Hence the annual net to Government worker groups probably is in excess of \$5 million a year.

The Government itself, which provides rent-free space to the vending machines, gets nothing. And blind vendors, squeezed by inflation as well as by the automated competition of the coin-operated machines, have watched the number of their stands shrink despite the inexorable growth of Federal buildings.

According to figures compiled by the Social and Rehabilitation Service of the Department of Health, Education, and Welfare (HEW) there were 878 concession stands operated by the blind in Federal buildings in fiscal year 1972. This was down from 881 the preceding year, and spokesmen for the blind concessionaires estimate the total is still shrinking.

HEW says there were 3,583 blind concessionaires in private and State as well as at Federal buildings last year, and that their average earnings were \$6,996.

Some indication of the importance of the concession stand program in the economy of the blind can be seen in statistics compiled by the National Society for the Prevention of Blindness. They show that of the estimated 450,000 Americans who meet the legal definition of blindness, some 310,000 are on welfare rolls.

Although the blind concessionaires have powerful friends in Congress so far they have not proved a match for the potent combine of Federal employee unions and the vending machine industry. Twice efforts to strengthen the law intended to protect the sightless snack bar operators have failed. And countless attempts to invoke a 1952 opinion from the Comptroller General ruling the Vending Machine-Employee Association combine illegal also have failed.

The ruling, which seemed clear and to the point, has simply been ignored. It said: Funds derived from the installation and operation of vending machines on government-owned or controlled property are required to be deposited into the Treasury of the United States."

Instead, the vending machine profits being siphoned from the pockets of the blind have been deposited into a large but unknown number of Government Employee Associations, with little or no accountability.

Durward K. McDaniel, a blind Washington attorney and spokesman for the American Council of the Blind. Also represents the blind concessionaires. Although few of the sightless small businessmen are willing publicly to buck the power of the entrenched U.S. Employee Associations, McDaniel has files bulging with accounts of how blind concessionaires are being frozen out by bureaucrats eager to monopolize lush snack bar profits.

In Houston a postmaster refused to let a blind person set up a stand in a new post office building, although four blind concessionaires had operated stands in the old building.

Refusal to permit blind operators to move into new buildings has been a favorite tactic. Being used in such places as Des Moines, Sacramento, Arlington, Va., and Washington.

Other tactics used to pressure the blind vendors include moving their stands to remote, dead-end hallways, forbidding them to run "wet" stands (those that serve coffee), or forbidding them to sell sandwiches or pastries in competition with employee cafeterias.

In other cases Federal employees have simply demanded a cut of the blind concessionaires' profits. At the Kennedy Space Center employees sought to coerce 11 blind concessionaires into turning over five per cent of their profits to help maintain a gaudy tennis, swimming and picnic center. Ten of the blind men surrendered, but the 11th—James Parkman of Titusville, Fla., turned out to be a tiger.

He hired a lawyer, who quickly wrung the promise from the government workers that they would keep their hands out of the blindmen's cash registers.

"But few blind persons have the resources to fight," McDaniel observes. "Jobs for the blind are too hard to find."

Instead, the blind men—already cruelly hurt by accident or disease—simply watch their earnings and self-respect dwindle as the vending machines and bowling leagues eat into their profits.

Sen. Jennings Randolph, D-W.Va., coauthor of the original 1936 act to encourage sightless men and women to become self-sufficient by operating snack bars in government buildings, has sought to amend the law. Either by granting blind persons the exclusive right to operate stands in public buildings, or by mandating the enforcement of the Comptroller General's 1952 ruling.

But to date his efforts have failed, at least partly because of the implacable opposition of government employee unions. He will reintroduce his amendment again, but is waiting for a pending General Accounting Office audit of the receipts of all vending machines now operating in government buildings.

"Any fair-minded person must come down on the side of humanity in this situation," says Randolph. "About the only reasonable argument I've heard from these (employee association) groups trying to retain these vending machine funds is: 'it's good for our morale.'"

"The original law plainly stated that the blind shall be given preference in the operation of vending stands. In 1936 there were few automatic vending machines in existence . . . (but) the intent of Congress is as clear today as it was when the act was conceived."

Equally clear, however, is Congress' unwillingness to cross the powerful Government employee unions that have made common cause with the Employee Welfare Associations in defending their tie-in with vending machines.

Typical of the union attitude is testimony of Francis S. Filbey, President of the American Postal Workers Union (APWU). While openly admitting doubt as to the legality of the deal between the vending machine operators and employee recreation associations, Filbey opposes changes in the law that would nail down the exclusive rights of the blind to do business in government buildings.

"We believe that things ought to be able to be worked out that would provide the additional job opportunities (for the blind) without necessarily disturbing everything which has gone before," Filbey told a Senate Subcommittee on Handicapped Workers two years ago.

He said repeated attempts to work out a compromise with the blind snack bar operators had failed. (Last week, an APWU spokesman said the organization's stand had not changed since Filbey's testimony.)

During the 1971 hearings, Filbey complained that "our unions can gain nothing by putting ourselves in the position which the public could interpret as an effort, shall we say, to rob the blind. Certainly, had this practice not grown up over the years, we wouldn't be here in an effort to protect what our members believe is their right."

Whether influenced by the powerful 600,000-member postal workers union or for other reasons, the Postal Service has proved one of the most difficult agencies for the blind concessionaries to deal with. In fiscal year 1972, the Postal Service closed down 16 blind-operated stands, while permitting only 7 new ones to be opened.

RANDOLPH-SHEPPARD VENDORS OF AMERICA,
Washington, D.C., October 10, 1973.

MEMORANDUM TO MEMBERS OF CONGRESS:

Currently, the vending stand program for the blind is being adversely affected by three major problems. The program as mandated by Congress under the 1936 Randolph-Sheppard Act is now under considerable jeopardy. The federal employee associations are garnering money from vending machines which are excluding the blind from obtaining stands in the buildings and are preventing the blind from competing with vending machines by excluding items that are traditionally allowed to be sold at their stands.

General Services Administration (G.S.A.) this past Fall attempted to bring into being a regulation by which blind vendors would not be allowed in their vending stands to sell food in competition with cafeterias. This regulation was withdrawn and now G.S.A. is attempting by contract with the licensing agency to obtain the same results.

The third problem adversely affecting the vending stand program is that of Minority Business Enterprise. In numerous instances in federal buildings the minority businesses are being allowed to compete directly both in locations and items being sold by the vending stands operated by the blind.

We would like to call your attention to the article, "Stealing from the Blind," by Majorie Boyd in the December, 1972 *Washington Monthly* in which the problem of the federal employee associations and the vending machine monies was clearly stated. The Comptroller General recommended to Congress that it clarify this matter—as yet, this has not been resolved. Despite the fact that the Randolph-Sheppard Regulations state that the blind should receive the monies from vending machines in proximity to their stands, the definition is so unclear that very little of the money gets into the hands of the blind vendor.

At the request of the Senate Committee on Labor and Public Welfare the General Accounting Office has investigated the use of money derived from vending machines on federal property with particular reference to the competition of federal employee associations which is so well described by Mrs. Boyd's article. We understand that the GAO report will be released before the end of September and we believe that its contents will support our request for immediate action.

Even though the G.S.A. withdrew its proposed regulations late last year, it is now seeking on a case by case basis to achieve the same results. In Philadelphia the G.S.A. is severely restricting the items which blind vendors will be permitted to sell while other vendors, who are not blind, in the same buildings are permitted to sell food and beverages. Licensed blind operators have demonstrated many times that they can operate businesses which offer for sale a varied line of food and beverages for the use of federal employees and the general public. The restriction is arbitrary and discriminatory in that it violates the preference stated in the Randolph-Sheppard Act, the main purpose of which is to provide gainful employment for blind persons. The competing interests which are being favored by G.S.A. do not operate under a Congressional preference and yet the G.S.A. would give them such a preference over the blind vendor on federal property. Recently, the G.S.A. has insisted upon still another requirement. Namely, by contract with the State Licensing Agency, the G.S.A. insists that employees of licensed blind operators be fully sighted. There are hundreds of examples throughout this country of blind and partially sighted people working for licensed blind vendors and this new requirement by G.S.A. defeats the purpose of the Randolph-Sheppard Act.

In recent years, the establishment of Minority Business Enterprises on federal property has created a new source of competition for the blind vendor. In many instances, the Minority Business Enterprise is in direct competition with the blind vendor, although there is no act of Congress which authorizes such competition on federal property. We are sympathetic with the employment problems of minority groups and many of our members are counted among racial minorities; but we must point out that the unemployment rate among blind persons of employable age is six times that of the rate for other minorities. We request that you ask the Comptroller General of the United States to consider this matter and to rule on the comparative rights and legality of this unauthorized competition.

By way of summary we find that we have a preference granted by Congress but that we are unable to compete with other interests which have been allowed to encroach upon vending operations on federal property. We respectfully urge that Congress provide a remedy for this situation which is undermining the purpose and Congressional intent of the Randolph-Sheppard Act. We urge that every lawful means be utilized to bring about an effective solution. We also urge each member of Congress to carefully study the General Accounting Office report. We also ask that each member of Congress join in supporting amendments to the Randolph-Sheppard Act when they are re-introduced by Senator Jennings Randolph.

CALIFORNIA BLIND BUSINESSMEN, INC.,
San Diego, Calif., October 31, 1973.

HON. JENNINGS RANDOLPH,
 U.S. Senate,
 Senate Office Building,
 Washington, D.C.

DEAR SENATOR RANDOLPH: I am enclosing the summary of a plan that has been brewing in Calif. for some time.

On the whole, I and other operators are delighted with provisions contained in S. 2581.

We presume there may be opposition in passing this into law. If concessions must be made, it might become necessary to develop this safety roadside rest stand concept in order to allow for growth of the blind vending stand program.

If this be the case, we must look toward liberalizing laws that would prohibit that concept from becoming reality. Is it possible S. 2581 on page 14—line 22 "(e)"—that this might prohibit development of stands at roadside rest stops and truck weigh-in stations?

We think you for your interest in our problems.

Yours truly,

IONE B. MILLER,
*Legislative Representative for
 Calif. Blind Businessmen, Inc.*

IONE B. MILLER,
9291 Fermi Avenue, San Diego, Calif.

In 1969, an idea was developed in California by a man named John Spalding, a business enterprise officer in the vending stand program for the blind.

The idea was to place vending facilities operated by blind persons under the State licensing agency, at highway safety rest stops and truck weigh-in stations to provide a means to keep refreshments available to the motoring public.

The concept is known as the 'Spalding Theory'. Portable buildings of pre-fab material, live-in trailers and vending machines have been discussed for use with this concept.

Safety features for the operator have been planned to the smallest detail.

Title 23, Chapter 1-111 of the United States Code pertaining to highways would prohibit the use of this concept for blind operators of vending facilities on Federal property.

A bill is pending in the Calif. Legislature that would allow vending machines to be placed at state highway public safety rest stop areas. AB-1586 was introduced by Assemblyman Joe Gonsalves and is expected to be heard before the Transportation Committee of the Senate after Jan. 1, 1974.

LEAGUE OF FEDERAL RECREATION ASSOCIATIONS, INC.

A Volunteer, Non-profit Organization of Government Employee Recreation Associations

Tempo Building B
 Washington, D.C. 20315
 December 13, 1973

Hon. Jennings Randolph, Chairman
 Committee on Handicapped Workers
 U. S. Senate
 4232 Dirksen Office Building
 Washington, D.C.

Dear Mr. Chairman:

Your Committee has held hearings on Senate bill S. 2581. I would appreciate our position entered into the record.

I am not aware of anyone who does not support programs designed to provide employment opportunities for blind persons, or for that matter, anyone. We, in the League, recognize the value to the individual who can satisfy his personal needs through gainful employment. The value of a man, to himself, is enhanced when he can satisfy his needs through his own labor. This value is passed on to his organization and ultimately to the betterment of our country.

The present law does indeed achieve these goals. Our concern is that S. 2581 goes beyond that intent and does not consider the impact in the distribution of vending facilities receipts which has developed since the original law was passed over 30 years ago.

Now, many employee welfare and related activities receive support from the income derived from vending facilities. Our government does not appropriate funds for these services. Similar important activities in private industry are supported by company funds or through receipts from vending facilities. This leads us to the position of opposing the exclusive retention of funds to state agencies as noted in section 7. (a). Administrative procedures already assure that where vending machines are in direct competition with a vending stand, income from the machines accrues to the blind operator.

As chairman of this committee I realize your major concern is not for government workers. On the other hand, in this day of limited resources, we are all recognizing that an action taken also has a reaction that may reverberate. I believe the action proposed in S. 2581 does not improve the intent of the Randolph-Sheppard Act and could have a disastrous effect on employee welfare and related activities.

Respectfully yours,

E. W. Bisone

Edward W. Bisone,
 President,
 League of Federal Recreation
 Associations



THE SUNDAY SUN, BALTIMORE, MARYLAND, OCTOBER 14, 1973

MORNING

EVENING

SUNDAY

Trend

THE



SUN

THE A.S. ABELL COMPANY, PUBLISHERS
BALTIMORE, MD., 21203

Blind venders suffer as machines 'illegally' fatten employee funds

Sunpapers photos—William L. Klender

Vending machines, left, set up less than 150 feet from the concession of Lloyd Mitchell, below, in the new Post Office in Baltimore siphon the blind vender's income from his stand marginal, despite laws backing his enterprise.



By MARK REUTER

"I'm up and down all day . . . well, mostly down," admits Lloyd Mitchell during one of the frequent lulls at his tiny snack stand in the new downtown post office. Although he is the sole vender in a building with 3,000 workers, his business is "marginal"—that is, unable to support its operator.

Marginal because Mr. Mitchell, a blind man, must compete with a battery of 40 vending machines that squirt, heat or otherwise discharge prepackaged foods. An employee "recreation and welfare committee" controls these machines and uses the profits to purchase softball trophies, retirement gifts and, once, Thanksgiving Day turkeys for postal workers. Meanwhile Mr. Mitchell, as he wryly puts it, is given "exclusive rights to sell stockings and greeting cards."

Across the country the incomes of many blind venders are being chiseled away by federal government workers prospecting for funds to support after-hour employee activities or subsidize employee cafeterias. Blind concessionaires are supposedly protected from such employee abuses by a federal bill designed to establish jobs for the blind.

Five venders sue

Under the Randolph-Sheppard Vending Act, licensed blind venders are given "preference" to set up concession stands in federal buildings. Despite the clear intent of the act, many federal employees have engaged in various practices to gain control of vending revenues worth millions of dollars.

At the Kennedy Space Center, for

example, 11 blind venders were asked last year to funnel back a percentage of their sales to the local employee association to help support a swimming, boating and picnic center. Five of the venders objected and sued. The case is now before a Florida circuit court. Similar demands by employee groups have been uncovered in Illinois, according to an official at the Department of Health, Education and Welfare.

A more common practice involves setting discriminatory regulations before blind concessionaires open their stands in federal buildings. At the Social Security complex in Woodlawn, for instance, blind venders agree not to sell coffee, sandwiches or other high-profit foods; an arrangement that automatically boosts cafeteria sales. And at many large post offices, administrators and employee groups simply prohibit blind venders from operating vending machines or opening stands in choice locations.

"To us it's outrageous—it is exploiting defenseless people," says John Nagle of the National Federation of the Blind. "On the one hand, employee associations are being allowed to spend money on things that the rest of us have to pay for. On the other hand, they are limiting the employment opportunities of blind people." Adds Durwood McDaniel, national representative for the American Council of the Blind: "Vending money has nothing to do with government work. This is a situation in which employees poach on the federal preserve because they happen to be there."

Employee groups argue that they are entitled to vending machine revenues because they are the machines' custom-

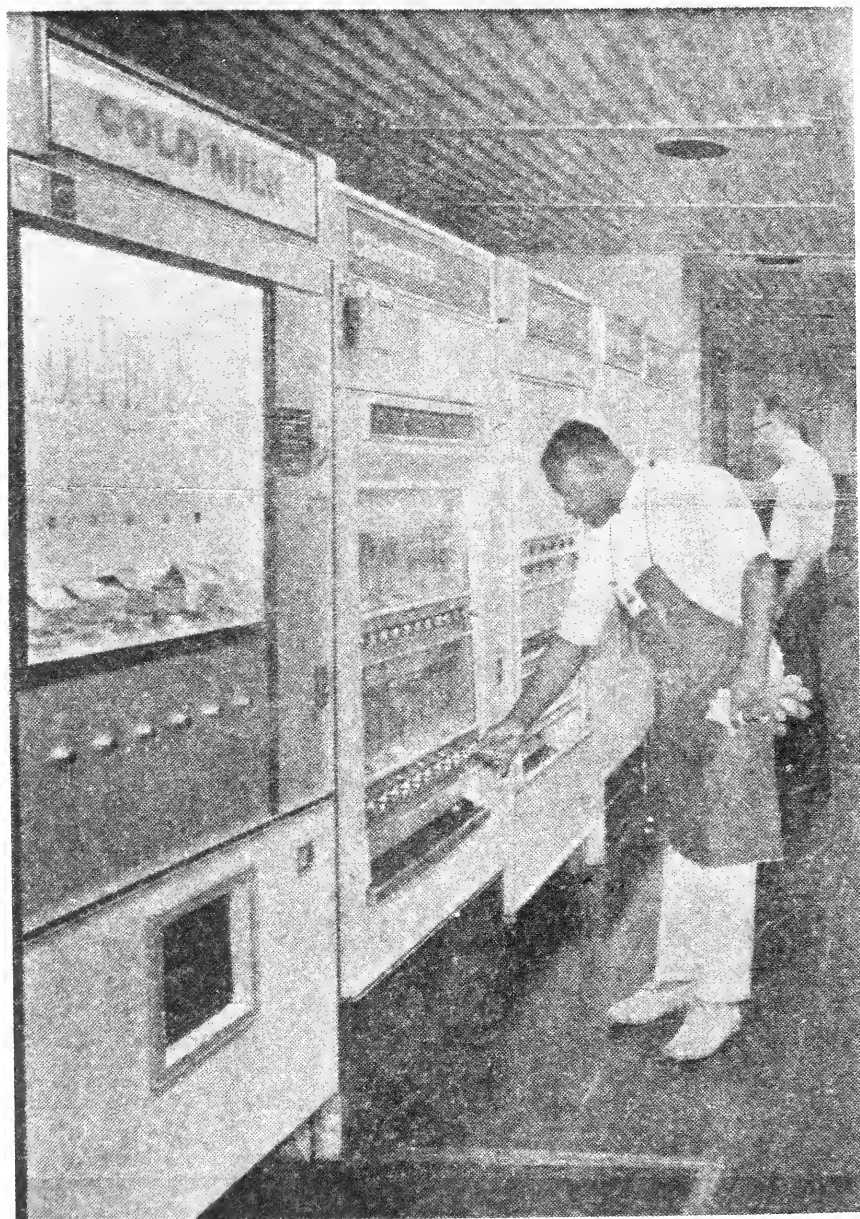
ers, adding that these funds are used to bolster employee morale. More to the point, government unions representing 1.25 million federal workers have staunchly opposed efforts in Congress to cut off the flow of dimes and quarters to their members. "What we're doing may be technically illegal," concedes John Schwartz, acting personnel director at Social Security, "but the activities we sponsor with vending machine funds are very important for our employees' morale."

Morale must be soaring

According to a just-released report by the Comptroller General, employee morale must be soaring. For example, at 7 military outposts (including the Pentagon), the Comptroller General found that employee groups gross \$10.2 million annually from their vending operations, or over 44 times the total sales of the blind concessionaires at these facilities. While the blind venders annually split a \$38,000 profit (one vender making only \$4,000), the employee groups yearly net \$2.5 million, the report disclosed.

Similarly, employee associations at about a third of the country's post offices annually receive a \$1.6 million profit from vending operations. Many blind venders at the same post offices earn less than \$3,000 a year. In other federal buildings, the Comptroller General found that employee groups and commercial vending companies were receiving about half of the total vending sales.

This was not supposed to happen under the Randolph-Sheppard Vending Act, passed in 1936. The act gave licensed blind venders special privileges



to set up concession stands in federal buildings. With the advent of the vending machine, Congress passed an amendment in 1954 requiring federal agencies to give blind concessionaires the profit from "competing" vending machines. The Comptroller General, meanwhile, ruled that vending funds not absorbed by the blind on federal property should be deposited in the U.S. Treasury, not diverted to employee associations.

Ironically, while blind concessions have steadily grown in non-federal buildings, the number of stands on federal property has leveled off in recent years to about 900. So has the income that would finance new vending stands, says Robert Humphreys, special counsel for the Senate Subcommittee on Handicapped Workers. He notes that during Congressional hearings in 1971 the director of the office for the blind estimated that 3,660 blind people could be incorporated into the vending program—if vending machine money were available.

—O—

"I liked it better in the old Calvert Building," Murray Salkin says. No wonder. The vender, blinded in World War II, says he had to absorb a 40 per cent drop in business when he was moved into the Fallon Federal Building at Charles Center. Mr. Salkin's initial problem was finding customers. "They put me on the third floor near the air conditioning system," he explains, "rather than in the space beside the basement cafeteria."

At this obscure location, Mr. Salkin soon discovered that the 11 vending machines not in his stand were annually gobbling up \$17,000 worth of dimes and quarters. Profits from these machines—amounting to \$4,102, according to the

General Services Administration—are automatically fed back to employees through cafeteria subsidies. While government workers in the Fallon building presently enjoy 20-cent bowls of soup and 50-cent beef pot pies, Mr. Salkin says he and his wife "are getting by" with supplemental veteran payments.

In other federal buildings around Baltimore, award assemblies, public address systems and inexpensive meals are often financed by vending revenues. Such vending privileges are not bestowed on state or city workers. Henry C. Evans, regional superintendent of state offices, reports that income from non-cafeteria vending machines is forwarded to Blind Industries and Services, the quasi-public agency that runs the blind vending program in Maryland. City officials explain that profits from vending machines are either returned to blind vendors or funneled into the city's general revenue funds. "What right do employees have over vending revenues on public property," one city official asked.

Incomes restricted

In some federal buildings in Baltimore, blind concessionaires are allowed to operate vending machines, as provided by the Randolph-Sheppard Act. But at the Social Security complex and the post office, the major federal employers here, administrators have quietly taken steps to restrict the incomes of blind vendors.

At the main Social Security complex, for example, five blind vendors are permitted to operate non-beverage stands. Also located in the maze of hallways are 236 vending machines

which last year earned a \$214,267 profit. Out of this total, \$67,200 was turned over to the state blind agency while \$147,067 was channeled back to the cafeteria. The cafeteria, in turn, paid \$10,789 last year to the "Social Security Employees Activities Association."

Sam Prestianni, financial management advisor, readily admits that the blinds' share of vending machine money has been a target of Social Security's periodic thrift campaigns. In 1965, for instance, the Social Security Administration clamped a lid on the amount of money blind vendors could receive from vending machines. Since then, their share of the take has decreased from 50 per cent to 30 per cent.

Service centers compete

Social Security administrators have a direct stake in maintaining the flow of vending machine money to the cafeteria rather than to the blind. The \$10,789 transferred yearly from the cafeteria to the Employees Activities Association helps the administration pay for various social affairs. "They ask us maybe six or seven times a year to pick up the tab for receptions," explains EAA board member Joe Higgins, adding that his group has "dynamic, very general relations" with the administration.

Mr. Higgins also concedes that the five service centers operated by the EAA occasionally compete with the blind vendors. When questioned about the legal propriety of this competition, Mr. Higgins chuckled and said, "I never went back to that Randolph-Sheppard Act. Anyway, I don't think it would stop

Continued on Page 6

Employees see no evil

Continued from Page 1

us from doing anything we want [to do] to help our membership."

The postal service here and in many cities skirts the provisions of the Randolph-Sheppard Act by splitting post offices into two categories—"public" lobbies where blind concessionaires are permitted to sell non-beverage items and "private" work rooms where employee-controlled vending machines reign. In Baltimore this system has resulted in one blind vender and 77 vending machines.

A local "recreation and welfare committee" negotiates the vending contracts, distributes vending profits and (in apparent violation of postal guidelines) designates an employee committee to audit its accounts. Last year these vending operations grossed \$593,355, according to spokesman John Demetriades. After paying utility costs and a \$50-a-week subsidy to the blind vender, the employee association netted a \$15,000 profit last year.

This money is used to pay for retirement ceremonies, floral displays, public address systems, service pins, jazz band uniforms, background music in the cafeteria, athletic trophies, coffee urns and, once, free turkeys for employees at Thanksgiving. John Kuhn, personnel director, has chaired the employee association since its inception in 1958. "Sure, we'd oppose the loss of this money," he says. "We want to continue to get a piece of the action."

—O—

"Have you figured how many taxes we pay and what good we can do when we're employed and not on welfare," asks Anna Neufeldt, the blind concessionaire at the 707 Calvert Building downtown. Ms. Neufeldt says she has "blossomed out" during the five years she has run a vending stand, gaining enough confidence to even journey alone to Africa. "To me this is the American way, giving people opportunities to work for themselves."

This is evidently not the government's way. On the local level, the Comptroller General's report indicated that many state blind agencies have acquiesced to employee demands and limited the number of blind stands. In Maryland, the report noted, there are neither uniform

guidelines concerning the establishment of new vending stands nor methods to insure that the 51 current venders receive a "fair minimum return."

Congress has also been reluctant to confront employee groups. In 1949 the General Accounting Office, reporting that federal workers were using vending machine money for their own purposes, asked Congress to "clarify" the Randolph-Sheppard Act.

Such clarification, though, languished in the committee system for the next two decades, despite protests from blind organizations. Finally, in 1970, the author of the original vending bill, Senator Jennings Randolph (D., W.Va.), submitted a bill that would give blind concessionaires exclusive rights over vending machine profits.

Ran into trouble

The bill quickly passed the Senate, but in the House ran into opposition from federal employee unions. Again in 1971 Randolph's bill passed the Senate only to be stopped by the House parliamentarian for technical reasons. During the 1971 vending hearings, six blind organizations, including a grass roots blind venders association, wholeheartedly supported the bill.

Strongly against the bill were officials from five government unions, who repeatedly mentioned the number of federal employees they represented (1.25 million altogether). The unions' arguments were summed up by Patrick J. Nilan, of the American Postal Workers Union: "Federal employees are again being singled out as one group to assist or subsidize the operation of the handicapped program. . . . Postal and federal workers are being asked to give up something they have enjoyed for 25 or more years." Another union spokesman noted that Congress has never permitted blind venders to set up stands on Capitol Hill.

This month, Senator Randolph is expected to hold further hearings on the blind vending program and reintroduce his vending stand bill. Those knowledgeable of the situation, however, are not optimistic that the bill will pass.

And as one federal official privately noted, "So what if it does—who is going to obey it?"

[From the *Washington Post*, October 13, 1973]

GAO: Blind Get No Breaks

By Richard Starnes
Scripps Howard News Service

A sharply worded report by the General Accounting Office accuses the Defense Department and the U.S. Postal Service of depriving blind concession stand operators of hundreds of jobs and possibly millions of dollars in income.

The GAO investigation was ordered by Sen. Jennings Randolph, D-W. Va., coauthor of a 37-year-old law intended to give sightless persons preference in operating concession stands in government buildings.

In spite of the law, Randolph said, "blind vendors have met with obstacles every torturous step of the way." He estimated that the 3,500 licensed blind vendors now operating stands could be doubled in five years "if the onerous restraints of undue competition are lifted."

"They (blind operators) find competition from federal employee welfare and recreation associations which operate their own vending

machines. They find military post commanders who are unwilling to consider blind vendor sites at their installations. They even find . . . that an employee association at a major federal space installation demanded that blind vendors give 10 percent of their profits to the employee association."

THE GAO REPORT made it clear that the principal abuses in the blind vendor program took place in Postal Service and Defense Department installations.

From responses to questionnaires sent to 291 postal installations, GAO found there were 68 vending stands operated by the blind, and one vending stand and 2,873 vending machines controlled by employee associations.

"Employee associations had gross receipts of \$2.8 million . . . and a net income of \$1.6 million," GAO reported.

"About \$86,800 of the net income was assigned to blind vendors under in-

come-sharing arrangements; the remainder went for employee benefits such as recreation programs, scholarships, and gifts."

Six of 10 blind Postal Service vendors questioned at random by GAO reported net income of under \$3,000, the report said.

GAO NOTED that a Postal Service audit had found abuses in the handling of income from vending operations and that there had been insufficient supervision "to insure compliance with federal policies and regulations."

Expanding the blind vendor program in postal installations, the report added, "will depend on postal officials' attitudes" and upon more vigorous action by state welfare agencies "in dealing with Postal Service officials on these matters."

In Defense Department installations, GAO charged, regulations "support and encourage" vending operations that benefit recreation and welfare associations of employees, but give "little consideration to the blind."

Military officials "have not been receptive" to efforts to establish additional blind concession stands, GAO investigators found. At six military installations in the Washington area, including the Pentagon, GAO investigators found 56 vending stands, only four of which were operated by the blind. Blind operators had gross receipts of \$230,600 and total net income of

\$38,000 last year, the report said, while 6,000 vending machines and other vendors had gross sales of \$12.6 million and net income of \$2.5 million.

"VENDING MACHINE operations at military installations are, for the most part . . . activities which contribute to welfare and morale programs," the report said. "Military officials said blind vendors could reduce money available for these programs. It was difficult to determine how (military) installations used net vending income."

Blind vendors now operating stands in federal buildings earned an average of \$6,996 last year, GAO reported, on gross sales of \$109.8 million.

Sen. Randolph, who has introduced legislation to strengthen the blind vendor program, noted a Vocational Rehabilitation Administration estimate that there were at least 40,000 blind persons who could be trained to operate vending stands. There are, he said, "some 6,000 young blind people in high schools who will be graduating in the next three years," plus "at least 500 Vietnam veterans who were blinded during their service in the armed forces."

Hearings on the proposed amendments to the blind vendor law will be held in mid-November by the subcommittee on the handicapped of the Senate Committee on Labor and Public Welfare.

[From the *Air Force Times*, November 21, 1973]

Military Hit on Vendor Policy

WASHINGTON — Blind vendors get little consideration from the Defense Department in efforts to open stands on military installations, the General Accounting Office charges.

The investigation of vending operations in federal agencies was ordered by Sen. Jennings Randolph (D-W.Va.), coauthor of a 37-year-old law intended to give sightless persons preference in operating concession stands in federal buildings and installations.

The deck appears stacked against the blind vendor by federal agencies, including DoD. Of 56 vending stands at six military installations and the Pentagon, blind vendors operate only four. They had gross receipts of \$230,600 and net income of \$38,000.

IN COMPARISON, other vendors had gross sales of \$12.6 million and total net income of \$2.5 million from the remaining stands and nearly 6000 vending machines.

"Although military officials acknowledged that DoD regulations require that preference be given to the blind to operate vending stands, they did not express any support for the program," GAO said.

Randolph noted that the Voca-

tional Rehabilitation Service has estimated there are at least 40,000 persons who could be trained to operate vending stands. There are some 6000 young blind persons in high schools who may be interested, as well as some of the 650 blind Vietnam veterans.

However, many of the blinded veterans are seeking college education and other training, a Veterans Administration official said. He did not believe that many would be satisfied with a vendor career.

The GAO report (B-176886) places most of the blame for defects in the blind vendor program on the Post Office and the Defense Department.

FOUR OF THE SIX military bases visited by GAO inspectors have no blind-vendor operations. These are Ft. Belvoir, Va., Ft.

Riley, Kan., Lackland AFB, Tex., and Camp Pendleton (Marine) base, Calif. The Norfolk, Va., and Charleston, S.C., Naval Shipyards each had one stand controlled by the blind, and the Pentagon has two such stands.

The size of the profits from concessions operated by non-blind vendors was noted by GAO. One major installation earned a net profit of \$1,824,000 from all operations, including vending operations. The net profits were distributed to Recreation fund \$900,000; central construction fund \$880,000; and retained by the Exchange for various purposes \$44,000.

There is a potential for more expansion of the blind vendor program, GAO said. But military officials must be willing to grant more permits for operations, and the states must press harder to obtain the permits, GAO said.

LEGISLATIVE HISTORY OF THE ACT OF JUNE 20, 1936



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Congressional Research Service

WASHINGTON, D.C. 20540

December 26, 1973

TO: Senate Committee on Labor and Public Welfare
Attention: Mr. Robert Humphreys

FROM: Education and Public Welfare Division

SUBJECT: P.L. 732 of the 74th Congress, An Act to Authorize the Operation of stands in Federal Buildings by Blind Persons, to Enlarge the Economic Opportunities of the Blind, and for Other Purposes (Randolph-Sheppard Act) -- A Legislative History

1935

January 24 -- H.R. 4688 introduced by Representative Jennings Randolph, referred to the Committee on Labor, page 958, Congressional Record, vol. 79.

March 12, 16 -- Hearings held by House Committee on Labor.

June 4 -- H.R. 4688 reported by Committee on Labor, H. Report No. 1094, page 8661, Congressional Record, vol. 79.

1936

March 16 -- H.R. 4688 amended and passed by House of Representatives by voice vote, pages 3793 to 3795, Congressional Record, vol. 80.

March 17 -- H.R. 4688 referred to Senate Committee on Education and Labor, page 3855, Congressional Record, vol. 80.

May 19 -- H.R. 4688 reported by Committee on Education and Labor with amendments, S. Report No. 2052, page 7455, Congressional Record, vol. 80.

June 1 -- H.R. 4688 amended and passed by Senate by voice vote, pages 8431 to 8432, Congressional Record, vol. 80.

June 3 -- House concurs in Senate amendments to H.R. 4688, page 8824, Congressional Record, vol. 80.

1936

- June 8 -- H.R. 4688 examined and signed in House of Representatives,
page 9286, Congressional Record, vol. 80.
- June 15 -- H.R. 4688 examined and signed in Senate, page 9313,
Congressional Record, vol. 80.
- June 15 -- H.R. 4688 presented to the President, page 9433,
Congressional Record, vol. 80.
- June 20 -- H.R. 4688 signed into law as P.L. 732 of the 74th Congress,
page 10700, Congressional Record, vol. 80.

Edward R. Klebe

[From the 74th Congress, Sess. II. Ch. 638. June 20, 1936]

AN ACT To authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes employment.

June 20, 1936.
[H.R. 4688.]
[Public,
No. 732.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting blind persons licensed under the provisions of this Act shall be authorized to operate vending stands in any Federal building where, in the discretion of the head of the department or agency in charge of the maintenance of the building, such vending stands may be properly and satisfactorily operated by blind persons.

Operation of stands in Federal buildings by blind persons.

SEC. 2. (a) The Office of Education in the Department of the Interior, subject to the direction of the Commissioner of Education and such rules and regulations as he may, with the approval of the Secretary of the Interior, prescribe, shall—

Office of Education, duties prescribed.

(1) Make surveys of concession-stand opportunities for blind persons in Federal and other buildings in the United States;

Surveys of concession stand opportunities.

(2) Make surveys throughout the United States for industries with a view to obtaining information that will assist blind persons to obtain employment;

Surveys of industries affording employment.

(3) Make available to the public, and especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

Dissemination of information obtained.

(4) Designate as provided in section 3 of this Act the State commission for the blind in each State, or, in any State in which there is no such commission some other public agency to issue licenses to blind persons who are citizens of the United States and at least twenty-one years of age for the operating of vending stands in Federal and other buildings in such State for the vending of newspapers, periodicals, confections, tobacco products, and such other articles as may be approved for each building by the custodian thereof and the State licensing agency; and

Designation of public agencies in States to issue licenses to blind citizens for operation of vending stands.

(5) Take such other steps as may be necessary and proper to carry out the provisions of this Act.

Other administrative measures.

(b) The State licensing agency shall, in issuing each such license for the operation of a vending stand, give preference to blind persons who are in need of employ-

Needy blind residents to be given preference.

License ;
duration,
termination.

License subject
to approval.

Limitation.

Location ; type
of stand.

Requirements
for State
agencies.

ment and have resided for at least one year in the State in which such stand is to be located. Each such license shall be issued for an indefinite period but may be terminated by the State licensing agency if it is satisfied that the stand is not being operated in accordance with the rules and regulations prescribed by such licensing agency. Each such license for the operation of a vending stand in a Federal building shall be subject to the approval of the Federal agency having charge of the building in which the stand is located. Such licenses shall be issued only to applicants who are blind within the meaning of this Act but are able, in spite of such infirmity, to operate such stands.

(c) The State licensing agency designated by the Office of Education is authorized, with the approval of the custodian having charge of the building in which the vending stand is to be located, to select a location for such stand and the type of stand to be provided.

SEC. 3. (a) A State commission for the blind or other State agency desiring to be designated as the agency for licensing blind persons for the operation of vending stands as provided in this Act shall, with the approval of the governor of the State, make application to the Commissioner of Education and agree—

(1) To cooperate with the Commissioner of Education and with the division of vocational rehabilitation of such State in training, placing, and supervising blind persons;

(2) To provide through loan, gift, or otherwise, for each blind person licensed to operate a stand, an adequate initial stock of suitable articles to be vended therefrom;

Federal rehabilitation cooperation with State boards.
Vol. 41, p. 736.
U.S.C., p.1321.

SEC. 4. The Commissioner is authorized to cooperate with the State boards for rehabilitation of handicapped persons, established by the several States pursuant to the Act entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment", approved June 2, 1920, as amended and supplemented, in carrying out the provisions of this Act.

Expenses.

SEC. 5. (a) The Commissioner is authorized to make such expenditures out of any money appropriated therefor (including expenditures for personal services and rent at the seat of government and elsewhere, books of reference and periodicals, for printing and binding, and for traveling expenses) as he may deem necessary to carry out the provisions of this Act.

Preferential
employment of
blind persons.

(b) The Commissioner shall, in employing such additional personnel as may be necessary, give preference to blind persons who are capable of discharging the required duties, and at least 50 per centum of such additional personnel shall be blind persons.

Definitions.
"United States."

SEC. 6. As used in this Act—

(a) The term "United States" includes the several States, Territories, and possessions of the United States, and the District of Columbia.

"Blind person."

(b) The term "blind person" means a person having not more than 10 per centum visual acuity in the better eye with correction. Such blindness shall be certified by a duly licensed ophthalmologist.

"State."

(c) The term "State" means a State, Territory, possession, or the District of Columbia.

Appropriation
authorized.

SEC. 7. There is hereby authorized to be appropriated such sums as may be necessary for carrying out the provisions of this Act.

Approved, June 20, 1936.

[From the Congressional Record—House, Jan. 24, 1935]

BILLS INTRODUCED

* * * * *

By Mr. RANDOLPH. A bill (H.R. 4688) to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes; to the Committee on Labor.

[From the 74th Cong., 1st sess., House of Representatives, Report No. 1094]

**TO AUTHORIZE THE OPERATION OF STANDS IN FEDERAL BUILDINGS BY
BLIND PERSONS, TO ENLARGE THE ECONOMIC OPPORTUNITIES OF THE
BLIND, AND FOR OTHER PURPOSES**

**JUNE 4, 1935.—COMMITTED TO THE COMMITTEE OF THE WHOLE HOUSE
ON THE STATE OF THE UNION AND ORDERED TO BE PRINTED**

Mr. Connery, from the Committee on Labor, submitted the following report [to accompany H.R. 4688]:

The Committee on Labor, to whom was referred the bill (H.R. 4688) having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This legislation would allow the setting up of stands by the blind in Federal buildings and provides that these stands be licensed by the Office of Education in the Department of the Interior, subject to the direction of the Commissioner of Education. The bill provides that a survey be made of concession-stand opportunities for the blind in this country; second, that a survey be made throughout the United States of industries, with a view to obtaining information that will assist blind persons to obtain employment; third, that this data be made available to the public and especially to persons and organizations interested in helping the blind; and fourth, that licenses be issued to blind persons to be approved by the custodian of the building and the Commissioner of Education.

The committee held hearings on the accompanying bill, during which the committee had the benefit of listening to such representative leaders as Hon. Martin L. Sweeney, Member of Congress from Ohio; Hon. Smith W. Purdum, Fourth Assistant Postmaster General; Mr. S. P. Meadows, legislative representative of the American Federation of Labor; Mr. Leonard A. Robinson, chairman of the Citizens Welfare Sightless Committee of Cleveland; Mr. R. B. Irwin, executive director of the American Foundation for the Blind; Mr. Walter R. Handy of the Lions International; Mr. Ralph H. Campbell, secretary of Columbia Polytechnic Institute for the Blind; Mr. Arthur J. Lovell, Brotherhood of Locomotive Firemen and Enginemen; Mr. Bert Piers, member of the committee on the blind of the Lions International.

With rare exceptions, all those who appeared before the committee voiced their approval of this proposed legislation.

The committee feels that this is the logical time for such legislation to be enacted into law.

The Federal Government is spending billions of dollars to create employment opportunities for millions of persons, but not one blind person is benefitted thereby. The blind cannot build bridges, buildings, and do other kinds of work now being authorized by the Public Works Administration. The blind, at the present time, receive very little benefit from the work being done by the Federal Bureau of

Rehabilitation, not because this Federal agency does not want to help the blind, but rather because State commissions for the blind and other private and public agencies have been delegated the task of training and placing blind persons. The result has been that in some States some progress has been made by these agencies for the blind, while in other States, little or no progress has been made. The fault, as can be plainly recognized, is the fact that there is no definite or practical national system or plan whereby placement work of this kind can be done. The Federal Division of Rehabilitation, together with the various State divisions of rehabilitation, can boast of having done splendid work in the training and placing of handicapped persons in the United States, despite the limited funds it has to work with. Very fine cooperation, harmony among the workers, and a keen understanding of the workers' problems account for the good work now being done by the Division of Rehabilitation.

The committee believes that the speedy enactment of this measure into law would take care of a group of our people who are in distress and who are not being reached by any of the vast rehabilitation experiments which the Government is conducting.

The following letter from Hon. Harold L. Ickes, Secretary of the Interior, is submitted for the information of the House:

INTERIOR DEPARTMENT,
Washington, May 21, 1935.

Hon. WILLIAM P. CONNERY, Jr.,
Chairman Committee on Labor,
House of Representatives.

MY DEAR MR. CHAIRMAN: I have received your letter of May 7, enclosing a copy of H.R. 4688, entitled "A bill to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes."

There are several objections to this bill. It makes mandatory rather than permissive the operation of stands by blind persons. It excludes from the operation of stands able-bodied persons and persons incapacitated by reasons other than blindness. I feel that unemployable able-bodied persons, who can perform more effective service than blind persons in certain cases, deserve considerations, since they cannot command the same public assistance and sympathy as the blind.

At the present time there are in operation 23 stands in buildings in the District of Columbia under the supervision of the National Park Service of this Department, where newspapers, magazines, candies, tobacco products, etc., are on sale. Nine of these stands are operated by the Welfare and Recreational Association of Public Buildings and Grounds, a non-profit-making corporation. The 9 stands so operated employ 3 persons afflicted with infantile paralysis, 1 blind person and 35 able-bodied persons. These are several lunch counters and soda bars operated by the association in addition to the stands mentioned, where able-bodied persons are employed because blind persons could not meet the requirements.

Fourteen stands are operated by wards of the Columbia Polytechnic Institute for the Blind. Attendants at these stands are either blind or partially blind.

In the light of the above statements, I believe the employment of blind persons at stands should not be made mandatory, and I recommend that H.R. 4688 should not receive favorable consideration by the Congress.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

[From the Congressional Record—House, June 4, 1935]

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII.

Mr. CONNERY. Committee on Labor. H.R. 4688. A bill to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes; without amendment (Rept. No. 1094). Referred to the Committee of the Whole House on the state of the Union.

VENDING STANDS IN FEDERAL BUILDINGS FOR BLIND PERSONS

The Clerk called the next bill, H.R. 4688, to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That for the purpose of providing blind citizens of the United States with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, all Federal buildings having suitable locations for stands are hereby required to be open for operation of vending stands therein by blind persons licensed by the Office of Education, and the Office of Education in the Department of the Interior, subject to the direction of the Commissioner of Education and such rules and regulations as he may, with the approval of the Secretary of the Interior, prescribe, shall (1) make surveys of concession-stand opportunities for blind persons in Federal and other buildings in the United States; (2) make surveys throughout the United States of industries with a view to obtaining information that will assist blind persons to obtain employment; (3) make available to the public, and especially to persons and organizations engaged in work for the blind, all information obtained as a result of such surveys; (4) issue licenses to blind persons who are citizens of the United States and 21 years of age or over for the operation of vending stands in Federal buildings for the vending of newspapers, periodicals, candies, tobacco products, and such other articles as may be approved for each building by the custodian thereof and by the Commissioner, and (5) take such steps as may be necessary and proper to carry out the provisions of this act.

SEC. 2. (a) The Office of Education shall, in issuing each such license for the operation of a vending stand, give preference to blind persons who are in need of employment and have resided for at least 1 year prior thereto in the State in which such stand is to be located. Each such license shall be issued for an indefinite period but may be terminated by the Commissioner when he is satisfied that the stand is not being operated in accordance with the rules and regulations prescribed by him. Each such license shall be subject to the approval of the Federal agency having charge of the building in which the stand is located. Such licenses shall be issued only to applicants who are blind within the meaning of this act but are able, in spite of such infirmity, to operate such stands.

(b) The Office of Education is authorized, with the approval of the Federal agency having charge of the building in which the stand is to be located, to select a location for the stand.

SEC. 3. The Office of Education is authorized to purchase stand equipment out of funds hereinafter authorized to be appropriated, and, subject to such rules and regulations as he may prescribe, to lend such stand equipment to the various State commissions for the blind, and in States in which no State commission for the blind is in existence, the Commissioner shall designate a responsible private agency or agencies which will agree to cooperate with the Commissioner as provided in section 4 of this act.

SEC. 4. A State commission for the blind or an agency designated by the Commissioner shall, in order to obtain such stand equipment, (1) agree to supply such stand equipment without charge to blind persons who are licensed by the Commissioner to operate a vending stand in the Federal buildings in such State, and to other blind persons who are qualified to operate stands in other buildings in such State and who are in need of employment; (2) agree to cooperate with the Commissioner and the division of rehabilitation of such State, in training, placing, and supervising blind persons; (3) lend such funds as may be necessary to enable the blind persons operating such stands in such State to

purchase an original stock of supplies to be vended therefrom; and (4) agree to keep such stand equipment in repair.

SEC. 5. The Commissioner is authorized to cooperate with the State boards for rehabilitation of handicapped persons, established by the several States pursuant to the act entitled "An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment", approved June 2, 1920, as amended and supplemented, in carrying out the provisions of this act.

SEC. 6. (a) The Commissioner is authorized to make such expenditures out of any money appropriated therefor (including expenditures for personal services and rent at the seat of government and elsewhere, books of reference and periodicals, for printing and binding, and for traveling expenses) as he may deem necessary to carry out the provisions of this act.

(b) The Commissioner shall, in employing such additional personnel as may be necessary, give preference to blind persons who are capable of discharging the required duties.

SEC. 7. As used in this act—

(a) The term "United States" includes the several States, Territories, and possessions of the United States, and the District of Columbia.

(b) The term "blind person" means a person (1) having not more than 10-percent visual acuity in the better eye with correction, or (2) whose vision is so impaired that regular employment cannot be obtained due to this infirmity; and such blindness shall be certified by a duly licensed ophthalmologist.

(c) The term "State commission for the blind" means a commission established under authority of the State and engaged primarily in work for the blind.

(d) The term "private agency" means any organization, other than a State commission for the blind, engaged primarily in work for the blind.

(e) The term "State" means a State, Territory, possession, or the District of Columbia.

SEC. 8. There is hereby authorized to be appropriated such sums as may be necessary for carrying out the provisions of this Act.

Mr. RANDOLPH. Mr. Speaker, I offer certain clarifying amendments. The Clerk read as follows:

Amendment offered by Mr. RANDOLPH: Strike out beginning on page 1, line 3, down to and including line 10, on page 4, and insert in lieu thereof the following:

"That for the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, all Federal buildings having suitable locations for vending stands are hereby authorized to be made available for operation of such stands therein by blind persons licensed under the provisions of this act.

"SEC. 2. (a) The Office of Education in the Department of the Interior, subject to the direction of the Commission of Education and such rules and regulations as he may, with the approval of the Secretary of the Interior, prescribe, shall—

"(1) Make surveys of concession-stand opportunities for blind persons in Federal and other buildings in the United States;

"(2) Make surveys throughout the United States of industries with a view to obtaining information that will assist blind persons to obtain employment;

"(3) Make available to the public, and especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

"(4) Designate, as provided in section 4 of this act, the State commission for the blind in each State, or in any State in which there is no such commission, some other public agency to issue licenses to blind persons who are citizens of the United States and at least 21 years of age for the operating of vending stands in Federal and other buildings in such State for the vending of newspapers, periodicals, confections, tobacco products, and such other articles as may be approved for each building by the custodian thereof and the State licensing agency; and

"(5) Take such other steps as may be necessary and proper to carry out the provisions of this act.

"(b) The State licensing agency shall, in issuing each such license for the operation of a vending stand, give preference to blind persons who are in need of employment and have resided for at least 1 year in the State in which such stand is to be located. Each such license shall be issued for an indefinite period

but may be terminated by the State licensing agency if it is satisfied that the stand is not being operated in accordance with the rules and regulations prescribed by such licensing agency. Each such license for the operation of a vending stand in a Federal building shall be subject to the approval of the Federal agency having charge of the building in which the stand is located. Such licenses shall be issued only to applicants who are blind within the meaning of this act but are able, in spite of such infirmity, to operate such stands.

“(c) The State licensing agency designated by the Office of Education is authorized, with the approval of the custodian having charge of the building in which the vending stand is to be located, to select a location for such stand and the type of stand to be provided.

“SEC. 3. (a) Subject to such rules and regulations as the Commissioner of Education, with the approval of the Secretary of the Interior, may prescribe, the Office of Education is authorized—

“(1) To purchase vending-stand equipment for use in Federal buildings. Such equipment shall be purchased on requisition of the custodian of the Federal building in which the stand is to be placed and shall thereafter remain in his custody and be used for the purposes specified in this act; and

“(2) To purchase vending-stand equipment for use in all other buildings where vending-stand concessions for blind persons have been obtained by the State licensing agencies designated by the Office of Education. Such equipment shall be purchased on requisition of such licensing agencies and loaned to such State licensing agencies under the conditions set forth in section 4 of this act.

“(b) All stand equipment purchased under the provisions of subsection (a) of this section shall be made available, without charge, for the use of blind persons licensed under the provisions of this act.

“SEC. 4. (a). A State commission for the blind or other State agency desiring to be designated as the agency for licensing blind persons for the operation of vending stands and desiring to secure vending-stand equipment as provided in this act shall, with the approval of the Governor of the State, make application to the Commissioner of Education and agree—

“(1) To cooperate with the Commissioner of Education and with the division of vocational rehabilitation of such State in training, placing, and supervising blind persons;

“(2) To provide through loans, gift, or otherwise, for each blind person licensed to operate a stand, an adequate initial stock of suitable articles to be vended therefrom; and

“(3) To keep such stand equipment in other than Federal buildings in repair.”

Page 5, line 4, before the period, insert a comma and the following: “and at least 50 percent of such additional personnel shall be blind persons.”

Page 5, strike out lines 9 to 14, inclusive, and insert in lieu thereof the following:

“The term ‘blind person’ means a person having not more than 10 percent visual acuity in the better eye with correction. Such blindness shall be certified by a duly licensed ophthalmologist.”

Page 5, strike out lines 18 to 20, inclusive.

Page 5, line 21, strike out the letter "e" in the parentheses and insert in lieu thereof the letter "d."

Mr. McLEAN. Mr. Speaker, these amendments are rather long and I wonder if the gentleman will give us some explanation of how they affect the bill? It appears to me that they create a new bill.

Mr. RANDOLPH. The clarifying amendments are drawn up with the approval and desire of the Office of Education of the Department of the Interior, and instead of the legislation being mandatory the word "required" is changed to read "authorized" throughout. The bill remains with its features of self-help for deserving blind, a survey of industry to show opportunities for employment of the blind.

Mr. McLEAN. They still allow discretion in the Department?

Mr. RANDOLPH. Yes.

Mr. McLEAN. As to when, where, and how the stands will be placed?

Mr. RANDOLPH. Yes. I might say further the custodian of the building, of course, must give his O.K. In other words, there must be approval of the Federal agency having charge of the building in which the stand is located.

Mr. O'CONNOR. Will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. O'CONNOR. I understand that was the objection to the bill. Otherwise the Rules Committee had considered hearing the bill, and possibly reporting out a rule for it.

Mr. RANDOLPH. That is right. It comes here with the unanimous approval of the House Committee on Labor, and the support of practically all agencies for aid to the blind. The bill provides a common-sense method of aiding this deserving group to help themselves.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from West Virginia [Mr. Randolph].

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

[From the Congressional Record—Senate, Mar. 17, 1936]

BILLS REFERRED

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H.R. 4688. An act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes; to the Committee on Education and Labor.

(354)

AUTHORIZE OPERATION OF STANDS IN FEDERAL BUILDINGS BY BLIND PERSONS, ENLARGE ECONOMIC OPPORTUNITIES OF THE BLIND, ETC.

MAY 12 (CALENDAR DAY, MAY 19), 1936.—ORDERED TO BE PRINTED

Mr. WALSH, from the Committee on Education and Labor, submitted the following report [To accompany H.R. 4688]:

The Committee on Education and Labor, to whom was referred the bill (H.R. 4688) to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes, having considered the same, report favorably thereon and recommend that the bill do pass with amendments.

The committee have reported H.R. 4688 in lieu of a similar measure (S. 2196), introduced by Mr. Sheppard, and which is pending before the committee.

This legislation would allow the setting up of stands by the blind, in Federal buildings for the sale of newspapers, magazines, candy, tobacco products, and so forth, and provides that these stands be licensed by the Office of Education in the Department of the Interior, subject to the direction of the Commissioner of Education. The bill further provides that a survey be made of concession-stand opportunities for the blind in this country; second, that a survey be made throughout the United States of industries, with a view to obtaining information that will assist blind persons to obtain employment; third, that this data be made available to the public and especially to persons and organizations interested in helping the blind; and fourth, that licenses be issued to blind persons, to be approved by the custodian of the building and the Commissioner of Education.

The Senate and House bills, as originally introduced, made mandatory rather than permissive the operation of stands by blind persons and excluded from the operation of such stands able-bodied persons and persons incapacitated by reasons other than blindness. These provisions were objected to by the Departments of the Treasury, Interior, and Labor, and upon the suggestion of the Secretary of the Interior, the committee have amended section 1 of the House bill, leaving "in the discretion of the head of the department or agency in charge of the maintenance of the building" whether such vending stands shall be operated by blind persons licensed under the act.

The committee has omitted section 3 of the House bill, which section authorized the Commissioner of Education, with the approval of the Secretary of the Interior, to purchase vending-stand equipment for use in Federal buildings, and also the purchase by the Federal Government, rather than by the State, of stands and stand equipment for loan by the States to the blind operators of such stands not only in Federal, but also in non-Federal buildings in such States. The Bureau of the Budget has objected to such purchases by the Federal

Government, estimating the cost to be \$750,000, and citing further to the Secretary of the Interior recent liberal provisions for Federal aid to the blind, namely:

The Social Security Act of 1935 provides \$3,000,000 annually for grants to the States for assistance to needy individuals who are blind. That act also provides \$841,000 annually (in addition to existing annual appropriations of \$1,097,000) for grants to States for vocational rehabilitation of physically disabled persons, including the blind.

The House Committee on Labor, in reporting (H. Rept. No. 1094) the bill, H.R. 4688, stated, in part:

The committee held hearings on the accompanying bill, during which the committee had the benefit of listening to such representative leaders as Hon. Martin L. Sweeney, Member of Congress from Ohio; Hon. Smith W. Purdum, Fourth Assistant Postmaster General; Mr. S. P. Meadows, legislative representative of the American Federation of Labor; Mr. Leonard A. Robinson, chairman of the Citizens' Welfare Sightless Committee of Cleveland; Mr. R. B. Irwin, executive director of the American Foundation for the Blind; Mr. Walter R. Handy of the Lions International; Mr. Ralph Campbell, secretary of Columbia Polytechnic Institute for the Blind; Mr. Arthur J. Lovell, Brotherhood of Locomotive Firemen and Enginemen; Mr. Bert Piers, member of the committee on the blind of the Lions International.

With rare exceptions, all those who appeared before the committee voiced their approval of this proposed legislation.

The committee feels that this is the logical time for such legislation to be enacted into law.

The Federal Government is spending billions of dollars to create employment opportunities for millions of persons, but not one blind person is benefited thereby. The blind cannot build bridges, buildings, and do other kinds of work now being authorized by the Public Works Administration. The blind, at the present time, receive very little benefit from the work being done by the Federal Bureau of Rehabilitation, not because this Federal agency does not want to help the blind, but rather because State commissions for the blind and other private and public agencies have been delegated the task of training and placing blind persons. The result has been that in some States some progress has been made by these agencies for the blind, while in other States little or no progress has been made. The fault, as can be plainly recognized, is the fact that there is no definite or practical national system or plan whereby placement work of this kind can be done. The Federal Division of Rehabilitation, together with the various State divisions of rehabilitation, can boast of having done splendid work in the training and placing of handicapped persons in the United States, despite the limited funds it has to work with. Very fine cooperation, harmony among the workers, and a keen understanding of the workers' problems account for the good work now being done by the Division of Rehabilitation.

The committee believes that the speedy enactment of this measure into law would take care of a group of our people who are in distress and who are not being reached by any of the vast rehabilitation experiments which the Government is conducting.

The following letters from the Secretary of the Interior, the Secretary of Labor, and the Acting Secretary of the Treasury indicate their views on this legislation:

OFFICE OF THE SECRETARY OF THE INTERIOR,
Washington, April 23, 1935.

Hon. DAVID I. WALSH,
Chairman, Committee on Education and Labor,
U.S. Senate.

MY DEAR MR. CHAIRMAN: I have received your letter of March 11 enclosing a copy of S. 2196, entitled "A bill to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind and for other purposes", and requesting a report thereon.

There are several objections to this bill. It makes mandatory rather than permissive the operation of stands by blind persons. It excludes from the operation of stands able-bodied persons and persons incapacitated by reasons other than

blindness. I feel that unemployed able-bodied persons, who can perform more effective service than blind persons in certain cases, deserve consideration, since they cannot command the same public assistance and sympathy as the blind.

At the present time there are in operation 23 stands in buildings in the District of Columbia under the supervision of the National Park Service of this Department, where newspapers, magazines, candies, tobacco products, etc., are on sale. Nine of these stands are operated by the Welfare and Recreational Association of Public Buildings and Grounds, a non-profit-making corporation. The 9 stands so operated employ 3 persons afflicted with infantile paralysis, 1 blind person, and 35 able-bodied persons. There are several lunch counters and soda bars operated by the association in addition to the stands mentioned, where able-bodied persons are employed because blind persons could not meet the requirements.

Fourteen stands are operated by wards of the Columbia Polytechnic Institute for the Blind. Attendants at these stands are either blind or partially blind.

In the light of the above statements, I believe the employment of blind persons at stands should not be made mandatory, and I recommend that S. 2196 should not receive favorable consideration by the Congress.

Sincerely yours,

T. A. WALTERS,
Acting Secretary of the Interior.

OFFICE OF THE SECRETARY OF THE INTERIOR,
Washington, May 2, 1936.

HON. DAVID I. WALSH,
Chairman, Committee on Education and Labor,
U.S. Senate.

MY DEAR MR. CHAIRMAN: I have received your letter of February 26 enclosing a copy of S. 2196, to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes, together with suggested amendments thereto.

By a letter dated April 24, 1935, you were advised that the bill was objectionable in that it excludes from the operation of stands able-bodied persons and persons incapacitated by reasons other than blindness. There are a number of vending stands located in buildings under the jurisdiction of this Department where the employment of able-bodied persons is necessary because blind persons cannot meet the requirements. I feel that unemployed able-bodied persons who can perform more effective service than blind persons in certain cases deserve consideration, since they cannot command the same public assistance and sympathy as the blind.

It is recommended that the proposed amendments be further amended in the following manner:

Page 1, line 6, after the word "self-supporting," strike out the words "all Federal buildings having suitable locations for vending stands are hereby authorized to be made available for the operation of such stands therein by blind persons licensed under the provisions of this act", and insert the following words: "blind persons licensed under the provisions of this act shall be authorized to operate vending stands in any Federal building where, in the discretion of the head of the department or agency in charge of the maintenance of the building, such vending stands may be properly and satisfactorily operated by blind persons."

Page 3, section 4(a), line 4, insert after the word "shall" and before the word "make" the words "with the approval of the Governor of the State."

As State agencies are limited to public agencies in accordance with the provisions of paragraph (4), section 2(a), page 1, of the proposed amendments, it is recommended that section 7, on page 5 of S. 2196, be deleted.

If the amendments submitted with your letter are amended as indicated above, the Department would have no objection to the enactment of S. 2196.

However, I have submitted the proposed legislation, together with the amendments submitted with your letter and the amendments indicated by this Department, to the Bureau of the Budget for consideration and have been advised as follows:

"Your proposed reports recommend that the bills be amended to eliminate the mandatory requirement that all stands be awarded to the blind and leave to the discretion of the Department concerned the award of such stands as might be properly and satisfactorily operated by blind persons.

"While there would be no objection to the presentation of your proposed reports, those reports do not voice a further objection to the bills that to me is of such a character as to make it necessary to advise you that the bills, even if amended as you suggest, would still be considered as not in accord with the program of the President. I refer to the provision for purchase by the Federal Government, rather than by the State (at an estimated cost of \$750,000), of stands and stand equipment for loan by the State to the blind operators of such stands not only in Federal but also in non-Federal buildings in that State. The Social Security Act of 1935 provides \$3,000,000 annually for grants to the States for assistance to needy individuals who are blind. That act also provides \$841,000 annually (in addition to existing annual appropriations of \$1,097,000) for grants to States for vocational rehabilitation of physically disabled persons, including the blind.

"In view of these recent liberal provisions for Federal aid to the blind, and of their underlying policy of direct State management of operations under the funds provided, I think that the proposed legislation, and, in particular, the proposal for purchase by the Federal Government of stands at a cost of \$750,000, should be considered in conflict with the program of the President."

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 6, 1936.

Hon. DAVID I. WALSH,
*Chairman, Committee on Education and Labor,
U.S. Senate, Washington, D.C.*

DEAR SENATOR WALSH: I have your letter of March 31 requesting my views with respect to a bill now pending before your committee, H.R. 4688, entitled "An act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes."

This bill proposes to extend employment opportunities for blind people by making Federal buildings throughout the country available for the operation of vending stands. The administration of the act is entrusted to the Office of Education in the Department of the Interior. Under the plan which the bill contemplates the Commissioner of Education would be authorized to designate State agencies to issue licenses to blind persons permitting them to operate such stands. In granting applications for such licenses preference is to be given to blind persons who need employment and who have resided for at least 1 year in the State where the stand is to be located. It is further provided that the Office of Education may purchase vending-stand equipment for use in Federal buildings and similar equipment for use in other buildings where licenses have been granted to blind persons by State licensing agencies.

I am informed that the proponents of this legislation have discussed the plan with various officers in the executive branch of the Government and at their request the bill has been amended so as to provide that every license granted

for the operation of a vending stand in a Federal building shall be subject to the approval of the Federal agency in charge of that building.

It would seem desirable also to have a further amendment requiring that the establishment of vending stands in buildings in the District of Columbia require the consent of both the National Park Service and the head of the department occupying the building, for it would obviously be inappropriate to have stands of this character in some of the buildings here.

Inasmuch as the vocational opportunities for blind persons are very limited, I am of the opinion that the enactment of a bill of this sort will serve a useful purpose. It has been demonstrated that blind persons can be trained to carry on business of this kind successfully.

There is one feature of the bill, however, which conflicts with the budgetary program of the President. I refer to the provision for purchase by the Federal Government rather than by the States (an estimated cost of \$750,000) of stands and stand equipment for loan by the State to the private operators of such stands, not only in Federal but also in non-Federal buildings in the States.

Sincerely yours,

FRANCES PERKINS.

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, April 27, 1936.

Hon. DAVID I. WALSH,
Chairman, Committee on Education and Labor,
U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of March 31, 1936, requesting the views of this Department on H.R. 4688, an act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes.

This Department is in complete sympathy with efforts to better the condition of blind persons. It is felt, however, that it is definitely unfair to restrict the economic opportunities provided by this bill to those afflicted with this one handicap. As an administrative practice, both blind and otherwise physically handicapped persons are now given employment in Federal buildings under the Department's control. There would seem to be no justification for depriving the latter class of the opportunities now afforded them and for replacing them with blind persons—as would be the likely consequence of enactment of the above bill.

For the reason above stated, this Department is definitely opposed to the enactment of H.R. 4688 in its present form.

Furthermore, I am advised by the Acting Director of the Budget that in view of recent liberal provisions for Federal aid to the blind, and of their underlying policy of direct State management of operations under the funds provided, the proposed legislation, particularly the proposal for the purchase and loan of the stands by the Federal Government, is not in accord with the program of the President, even if the objection made by this Department were obviated.

Very truly yours,

WAYNE O. TAYLOR,
Acting Secretary of the Treasury.

[From the Congressional Record—Senate, May 19, 1936]

BILLS REPORTED

* * * * *

Mr. Walsh, from the Committee on Education and Labor to which was referred the bill (H.R. 4688) to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes, reported it with amendments and submitted a report (No. 2052) thereon.

(360)

OPERATION BY BLIND PERSONS OF STANDS IN FEDERAL BUILDINGS

The Senate proceeded to consider the bill (H.R. 4688) to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes, which had been reported from the Committee on Education and Labor, with an amendment in section 1, on page 1, line 6, after the words "self-supporting," to strike out "all Federal buildings having suitable locations for vending stands are hereby authorized to be made available for operation of such stands therein by blind persons licensed under the provisions of this act," and to insert, "blind persons licensed under the provisions of this act shall be authorized to operate vending stands in any Federal building where, in the discretion of the head of the department or agency in charge of the maintenance of the building, such vending stands may be properly and satisfactorily operated by blind persons"; so as to make the section read :

That for the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this act shall be authorized to operate vending stands in any Federal building where, in the discretion of the head of the department or agency in charge of the maintenance of the building, such vending stands may be properly and satisfactorily operated by blind persons.

The amendment was agreed to.

The next amendment was, on page 4, line 3, to strike out all of section 3, as follows :

SEC. 3. (a) Subject to such rules and regulations as the Commissioner of Education, with the approval of the Secretary of the Interior, may prescribe, the Office of Education is authorized—

(1) To purchase vending-stand equipment for use in Federal buildings. Such equipment shall be purchased on requisition of the custodian of the Federal building in which the stand is to be placed and shall thereafter remain in his custody, and be used for the purposes specified in this act; and

(2) To purchase vending-stand equipment for use in all other buildings where vending-stand concessions for blind persons have been obtained by the State licensing agencies designated by the Office of Education. Such equipment shall be purchased on requisition of such licensing agencies and loaned to such State licensing agencies under the conditions set forth in section 4 of this act.

(b) All stand equipment purchased under the provisions of subsection (a) of this section shall be made available, without charge, for the use of blind persons licensed under the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 5, line 1, after "Sec.", to strike out "4" and to insert "3"; in line 3, after the word "stands", to strike out "and desiring to secure vending-stand equipment"; and in line 16, to strike out "(3) To keep such stand equipment in other than Federal buildings in repair", so as to make the section read :

SEC. 3. (a) A State commission for the blind or other State agency desiring to be designated as the agency for licensing blind persons for the operation of vending stands as provided in this act shall, with the approval of the Governor of the State, make application to the Commissioner of Education and agree—

(1) To cooperate with the Commissioner of Education and with the division of vocational rehabilitation of such State in training, placing, and supervising blind persons.

(2) To provide through loan, gift, or otherwise, for each blind person licensed to operate a stand, an adequate initial stock of suitable articles to be vended therefrom.

The amendment was agreed to.

The next amendment was, on page 5, line 18, to renumber section 5.

The amendment was agreed to.

The next amendment was, on page 6, to renumber section 6.

The amendment was agreed to.

The next amendment was, in line 13, to renumber section 7; in line 21, to strike out "(c) The term 'State commission for the blind' means a commission established under authority of the State and engaged primarily in work for the blind"; and in line 24, to strike out "(d)" and insert "(c)", so as to make the section read:

SEC. 6. As used in this Act—

(a) The term "United States" includes the several States, Territories, and possessions of the United States, and the District of Columbia.

(b) The term "blind person" means a person having not more than 10 per centum visual acuity in the better eye with correction. Such blindness shall be certified by a duly licensed ophthalmologist.

(c) The term "State" means a State, Territory, possession, or the District of Columbia.

The amendment was agreed to.

The next amendment was on page 7, line 1, to renumber section 8.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

[From the Congressional Record—House, June 3, 1936]

OPERATION BY BLIND PERSONS OF STANDS IN FEDERAL BUILDINGS

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 4688, an act to authorize the operation of stands in Federal buildings by blind persons to enlarge the economic opportunities of the blind, and for other purposes, and agree to the Senate amendments.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out all after "self-supporting", down to and including "act" in line 10, and insert: "blind persons licensed under the provisions of this act shall be authorized to operate vending stands in any Federal building where in the discretion of the head of the department or agency in charge of the maintenance of the building, such vending stands may be properly and satisfactorily operated by blind persons.

Page 2, line 15, strike out "4", where it occurs the second time, and insert "3."

Page 3, strike out lines 23 and 24, and lines 1 to 20, inclusive, on page 4.

Page 4, line 21, strike out "4" and insert "3."

Page 4, line 24, strike out "and desiring to secure vending stand equipment."

Page 5, strike out lines 12 and 13.

Page 5, line 14, strike out "5" and insert "4."

Page 5, line 22, strike out "6" and insert "5."

Page 6, line 10, strike out "7" and insert "6."

Page 6, strike out lines 18, 19, and 20.

Page 6, line 21, strike out "(d)" and insert "(c)."

Page 7, line 1, strike out "8" and insert "7."

The SPEAKER. Is there objection?

There was no objection.

The Senate amendments were agreed to.

[From the Congressional Record—House, June 8, 1936]

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

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H.R. 4688. An act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes.

(364)

[From the Congressional Record—Senate, June 15, 1936]

SIGNING OF ENROLLED BILLS AND JOINT RESOLUTIONS

The Vice President announced that, under authority of House Concurrent Resolution 54, he signed, during the recess of the Senate, the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

* * * * *

H.R. 4688. An act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes.

[From the Congressional Record—House, June 15, 1936]

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. Parsons, from the Committee on Enrolled Bills, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

* * * * *

On June 12, 1936:

H.R. 4688. An act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes.

[From the Congressional Record—House, June 20, 1936]

MESSAGE FROM THE PRESIDENT

A message from the President announced that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On June 20, 1936:

H.R. 4688. An act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes.

(367)



HV1607

C. I.

H351 Randolph-Sheppard Act for
the Blind amendments of
1973: Hearings before
the Committee on the

HV1607

H351

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